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Selected Legislative Proposals to Reform the Housing Finance System

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Summary

The 113th Congress has seen several developments in the effort to reform the housing finance system. In the House, the Protecting American Taxpayers and Homeowners Act of 2013 (PATH Act; H.R. 2767) was ordered to be reported out of the House Financial Services Committee on July 24, 2013. The PATH Act proposes to wind down Fannie Mae and Freddie Mac (the government-sponsored enterprises, or GSEs) over several years. In this context, wind down refers to dissolving Fannie Mae and Freddie Mac by removing their charters and placing certain assets and liabilities into a receivership entity. It would replace them with a National Mortgage Market Utility that would facilitate private market mortgage securitization but would not provide a government guarantee. The PATH Act would retain in a modified form the existing government guarantee programs, such as the Federal Housing Administration (FHA). The act would also eliminate or delay the implementation of certain existing regulations that some believe are inhibiting the recovery in the mortgage market. In addition, the PATH Act proposes to reform FHA by, among other things, making it an independent agency and taking steps intended to improve its finances, better target its role in the mortgage market, and increase the amount of private capital in the market.

In the Senate, several proposals have been discussed. Republican and Democratic members of the Senate Committee on Banking, Housing, and Urban Affairs have sponsored the Housing Finance Reform and Taxpayer Protection Act of 2013 (S. 1217; commonly referred to as the Corker-Warner bill), which proposes to wind down Fannie Mae and Freddie Mac and to replace them with a new reinsurance plan. After a series of hearings, Senator Johnson, the chairman of the committee, and Senator Crapo, the ranking Member, released legislative text of a reform proposal that uses S. 1217 as the base text. They also announced plans to hold a committee markup on the Johnson-Crapo GSE proposal.

The Johnson-Crapo GSE proposal would wind down Fannie Mae and Freddie Mac and would replace the Federal Housing Finance Agency (FHFA) with a new Federal Mortgage Insurance Corporation (FMIC). The FMIC would be an independent agency charged with supporting the mortgage market and providing reinsurance on eligible mortgage-backed securities (MBS). These MBS would have an explicit government guarantee. The FMIC would only pay out on its guarantee after a significant amount of private capital absorbed the first losses. In addition, the FMIC would regulate aspects of the mortgage market related to its guaranteed MBS and would establish a new multifamily housing finance system as well.

Neither the Corker-Warner bill nor the Johnson-Crapo GSE proposal includes FHA -related provisions. However, a stand-alone FHA reform bill has been introduced in the Senate. The FHA Solvency Act of 2013 (S. 1376; commonly referred to as the Johnson-Crapo FHA bill), which would reform FHA, was reported out of the Senate Committee on Banking, Housing, and Urban Affairs on July 31, 2013. The Johnson-Crapo FHA bill proposes a number of changes to FHA aimed at ensuring that FHA's single-family programs are financially sound, including a number of provisions that have been sought by FHA.

This report will briefly explain the different approaches to housing finance reform offered by these legislative proposals, focusing on efforts to replace Fannie Mae and Freddie Mac and reform FHA. The report does not describe every provision of the proposals but discusses major concepts and themes.

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Introduction

The bursting of the housing bubble in 2007 and the multi-year downturn in the housing and mortgage markets have led some to question whether the pre-crisis structure of the housing finance system is appropriate for the future. Many different housing finance reform plans have since been proposed, and from the debate some broad principles appear to have emerged. Among those principles are as follows:

- **Prevent taxpayers from having to provide assistance again in the future.** Fannie Mae and Freddie Mac—two government-sponsored enterprises or GSEs—experienced significant financial losses when house prices fell and foreclosure rates increased. The GSEs were placed in conservatorship by their regulator, the Federal Housing Finance Agency (FHFA), in September 2008.[1] Over five years later, the GSEs remain in conservatorship and have received approximately $187 billion in assistance in the form of senior preferred stock purchased by the Department of the Treasury. Though the GSEs have made significant dividend payments to the Treasury since entering conservatorship, none of these payments count toward paying back the amount injected by Treasury. The dividends compensate Treasury for its assistance and the risk it has assumed.

  Furthermore, concerns have been expressed after the Federal Housing Administration (FHA), an agency within the Department of Housing and Urban Development (HUD) that provides federal mortgage insurance, received $1.7 billion from Treasury at the end of FY2013 to ensure that it had enough funds on hand to pay for all of the expected future costs associated with the mortgages that it currently insures.[2] These funds were provided under the permanent and indefinite budget authority provided to all federal credit programs under the Federal Credit Reform Act of 1990, and the transfer of funds from Treasury did not require additional congressional action.[3]

- **Return private capital to the mortgage market.** The increased role of the federal government in the mortgage market since 2008 is shown in **Figure 1**. In addition to Fannie Mae and Freddie Mac, the government guarantees mortgage loans through FHA, the Department of Veterans Affairs (VA), and the U.S. Department of Agriculture (USDA). The government backs mortgage-backed securities (MBS) composed of FHA, VA, and USDA mortgages through Ginnie Mae, an agency within HUD. Since 2008, Ginnie Mae and the GSEs have collectively provided funding for approximately 75% to 85% of annual mortgage

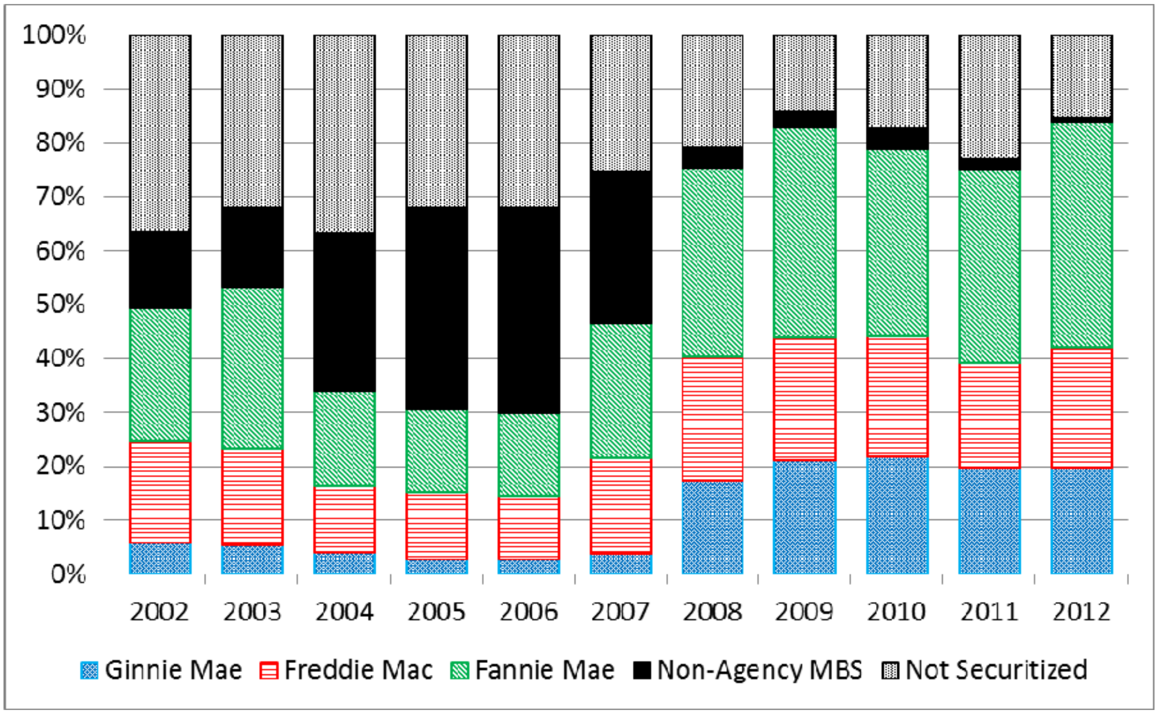
[1] For more on the financial status of the GSEs, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[2] In general, FHA is supposed to earn enough money in fees to cover the costs of mortgages that default. However, like all federal credit programs, FHA has permanent and indefinite budget authority with Treasury to cover higher-than-expected future costs of loan guarantees. For more on the financial status of FHA, see CRS Report R42875, *The FHA Single-Family Mortgage Insurance Program: Financial Status and Related Current Issues*, by Katie Jones.

[3] The Federal Credit Reform Act is Title V of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) and is codified at 2 U.S.C. §661 et seq.

originations, up from about 30% in 2006, as the share of non-agency MBS fell precipitously.

Figure 1. Mortgage Categories



Source: Inside Mortgage Finance, *Mortgage Market Statistical Annual: 2013*, Volume II: The Secondary Market, p. 2 and 4, and CRS calculations.

Notes: The figure shows annual funding and origination sources. Note that not all mortgages that were securitized in a given year were actually originated in that year.

- **Ensure that mortgage credit is available and affordable to creditworthy borrowers.** During the housing downturn, underwriting criteria for mortgages generally tightened, requiring higher credit scores and higher downpayments.[4] Some borrowers had a more difficult time financing the purchase of a home. Reform proposals would attempt to make mortgage credit and certain mortgage products, such as the 30-year fixed-rate mortgage, both available and affordable to creditworthy borrowers.

Although different plans have similar goals, their different diagnoses of problems facing the market have led to divergent proposals. Some believe that private capital has been slow to return to the mortgage market because the government (through Fannie Mae, Freddie Mac, and FHA) is crowding out the private sector, and because there are insufficient standards for the private sector to function appropriately. By shrinking the government's footprint and by establishing "rules of the road," the argument goes, the private sector will step up to fill the government's void. Others argue that while the government may need to reduce its role, the main impediment to the private sector returning is a lack of appetite for risk among private investors. They argue that the

[4] For example, the average credit score of mortgages purchased by Freddie Mac has increased since 2006. See Freddie Mac, *Freddie Mac Update*, August 2013, at http://www.freddiemac.com/investors/pdffiles/investor-presentation.pdf.

government must continue to provide some type of guarantee to ensure that the mortgage market will continue to provide credit at an affordable rate to creditworthy borrowers.

The 113th Congress has seen several developments in the effort to reform the housing finance system. In the House, the Protecting American Taxpayers and Homeowners Act of 2013 (PATH Act; H.R. 2767), which proposes to wind down the GSEs and would reform FHA, was ordered to be reported out of the House Financial Services Committee on July 24, 2013. In the Senate, several proposals have been discussed. Republican and Democratic members of the Senate Committee on Banking, Housing, and Urban Affairs have sponsored the Housing Finance Reform and Taxpayer Protection Act of 2013 (S. 1217; commonly referred to as the Corker-Warner bill), which proposes to wind down Fannie Mae and Freddie Mac and to replace them with a new reinsurance plan. After a series of hearings, Senator Johnson, the chairman of the committee, and Senator Crapo, the ranking Member, released legislative text of a reform proposal that uses S. 1217 as the base text. They also announced plans to hold a committee markup on the Johnson-Crapo GSE proposal. Unlike the PATH Act, the Johnson-Crapo GSE proposal does not address FHA. However, the Banking Committee has also reported a separate FHA reform bill, the FHA Solvency Act of 2013 (S. 1376; popularly known as the Johnson-Crapo FHA bill).[5]

This report briefly explains the different approaches to housing finance reform contained in the legislative proposals, focusing on efforts to replace Fannie Mae and Freddie Mac and to reform FHA. The report does not describe every provision of the proposals but discusses major concepts and themes. The next section provides a brief overview of some of the major entities in the housing finance system to lay the foundation for the ensuing discussion of legislative proposals.

The Role of the GSEs and FHA in the Housing Finance System[6]

The housing finance system has two major components: a *primary market* and a *secondary market*. Lenders make new loans in the primary market, and loans are bought and sold in the secondary market. The federal government is involved in both markets. The government insures certain mortgages originated by lenders in the primary market through different government agencies, with FHA as the largest provider of government mortgage insurance. FHA is an agency within HUD that provides mortgage insurance on loans that meet its requirements (including a minimum down payment requirement and an initial principal balance below a certain threshold) in exchange for fees, or premiums, paid by borrowers. If a borrower defaults on an FHA-insured mortgage, FHA will repay the lender the entire remaining principal amount it is owed. In the secondary market, Ginnie Mae—also a government agency in HUD—guarantees MBS[7]

[5] This report will describe H.R. 2767, S. 1217, the Johnson-Crapo GSE proposal, and S. 1376. The analysis of the Johnson-Crapo GSE proposal is based off of the text available at http://www.banking.senate.gov. Additional pieces of legislation have been introduced in the 113th Congress to reform the housing finance system, but those proposals are beyond the scope of this report. For information on reform proposals in the 112th Congress, see CRS Report R41822, *Proposals to Reform Fannie Mae and Freddie Mac in the 112th Congress*, by N. Eric Weiss and CRS Report R42875, *The FHA Single-Family Mortgage Insurance Program: Financial Status and Related Current Issues*, by Katie Jones.

[6] For a more comprehensive overview of the housing finance system, see CRS Report R42995, *An Overview of the Housing Finance System in the United States*, by Sean M. Hoskins, Katie Jones, and N. Eric Weiss.

[7] An MBS is a bond that is collateralized by mortgages. The creation of an MBS typically involves a financial institution acquiring and pooling together many different mortgages and then issuing an MBS. An MBS could be (continued...)

composed of mortgages guaranteed by FHA and other government agencies. The combination of FHA and Ginnie Mae transfers the credit risk (the risk that some borrowers might default and not repay their mortgages) from the lender and investor to the government.

Fannie Mae and Freddie Mac also operate in the secondary market. Until they were placed under government conservatorship in September 2008, Fannie Mae and Freddie Mac were stockholder-controlled companies with congressional charters that contain special privileges and certain special responsibilities to support affordable housing for low- and moderate-income households. The GSEs do not originate mortgages but instead have two main lines of business. First, through the GSEs' guarantee businesses, the GSEs purchase conforming mortgages—mortgages that meet certain eligibility criteria based on size and creditworthiness—and pool the mortgages into MBS. The MBS are sold to investors with the GSEs guaranteeing that investors will receive timely payment of principal and interest on their MBS even if a borrower with a mortgage that is part of the MBS becomes delinquent. The GSE guarantee transfers the credit risk from the investors to the GSEs. To compensate the GSEs for their guarantee, the GSEs receive a guarantee fee. In the second main line of business, the GSEs' portfolios, the GSEs hold mortgages and MBS (including GSE MBS, Ginnie Mae MBS, and MBS sold by other private entities) as investments.

When individuals discuss "bringing private capital back into the mortgage market," they often are referring to having private capital absorb credit risk rather than the government doing so through Fannie Mae and Freddie Mac or programs such as FHA. Private investors still bear other risks when they purchase MBS guaranteed by the GSEs or the government, such as risks related to the interest rate, but do not bear credit risk.

Reform Proposals

This section explains how the PATH Act and the Johnson-Crapo GSE proposal would wind down[8] the GSEs and would attempt to attract private capital back into the market. Differences between the Johnson-Crapo GSE proposal and the Corker-Warner bill are also discussed. In addition, this section describes how the PATH Act and the Johnson-Crapo FHA bill would reform FHA.

H.R. 2767, the Protecting American Taxpayers and Homeowners Act of 2013

The PATH Act (H.R. 2767)[9] proposes to wind down Fannie Mae and Freddie Mac over several years. It would replace them with a National Mortgage Market Utility that would facilitate mortgage securitization but would not provide a government guarantee. The act would also eliminate or delay the implementation of certain existing regulations that some believe are inhibiting the recovery in the mortgage market. In addition, the PATH Act would reform FHA,

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(...continued)

divided up into different pieces, or tranches, that are sold to investors. The investors do not own the underlying mortgages but are buying the right to receive the future stream of payments that come from those mortgages.

[8] In this context, wind down refers to dissolving Fannie Mae and Freddie Mac by removing their charters and placing certain assets and liabilities into a holding company, trust, or receivership entity.

[9] This section describes the PATH Act as it was ordered to be reported out of the Financial Services Committee.

making it an independent agency and taking steps intended to improve its finances, more narrowly target its market role, and increase the role of private capital.

Phase Out of Fannie Mae and Freddie Mac

The phase out of Fannie Mae and Freddie Mac involves two stages, actions taken during the first five years before the GSEs' charters are repealed and actions subsequently taken.

First five years after enactment. As mentioned previously, the GSEs each have two main lines of business—their guarantee businesses and their portfolios—and the PATH Act takes steps to wind down both businesses. For the guarantee businesses, the PATH Act proposes several steps to limit the GSEs' new business during the first five years after enactment. The GSEs would only be allowed to purchase or guarantee mortgages that meet the Qualified Mortgage (QM) standard.[10] Mortgages would also need to be below the conforming loan limit;[11] the limit in high-cost areas would decrease by $20,000 per year if the director of FHFA determines that market conditions allow it.[12] The GSEs would be prohibited from purchasing a mortgage for a home located in an area that used eminent domain to acquire a mortgage in the previous 10 years.[13]

In addition, the GSEs would have to set their guarantee fees for the mortgages that they guarantee at the level that the FHFA director determines is comparable to what a privately capitalized financial institution would charge. The GSEs' affordable housing goals and contributions to two affordable house funds, the Housing Trust Fund and the Capital Magnet Fund, would be repealed.[14] Fannie Mae and Freddie Mac would also be required to have at least 10% of their annual business involve risk-sharing transactions that transferred credit risk to private investors.

For the GSEs' second line of business, each GSE's mortgage portfolio would be required to decrease by 15% annually down to $250 billion. As of the end of 2013, Freddie Mac had a mortgage portfolio of $461 billion[15] and Fannie Mae had a mortgage portfolio of $490.7 billion.[16]

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[10] Qualified mortgages are mortgages that meet certain underwriting standards and product feature requirements under a regulation promulgated by the Consumer Financial Protection Bureau. See CRS Report R43081, *The Ability-to-Repay Rule: Possible Effects of the Qualified Mortgage Definition on Credit Availability and Other Selected Issues*, by Sean M. Hoskins.

[11] The conforming loan limit establishes the maximum size mortgage that the GSEs can purchase. See CRS Report RS22172, *The Conforming Loan Limit*, by N. Eric Weiss and Sean M. Hoskins.

[12] To make the annual decision, the FHFA Director would determine whether the spread between comparable conforming and non-conforming mortgages (a measure of private sector willingness to provide credit) exceeds 80 basis points. If the spread exceeds 80 basis points, no annual increase would be made.

[13] For information about proposals to acquire underwater mortgages through the use of eminent domain, see CRS Product WSLG187, *Legal Questions Abound Proposals to Use Eminent Domain to Acquire Underwater Mortgages*, by David H. Carpenter.

[14] Fannie Mae and Freddie Mac are required to meet certain affordable housing goals that are set by FHFA (for example, see FHFA, "2012-2014 Enterprise Housing Goals," 77 *Federal Register* 67535, November 13, 2012). The affordable housing goals target credit to low- and moderate-income households. For additional information on the Housing Trust Fund, see CRS Report R40781, *The Housing Trust Fund: Background and Issues*, by Katie Jones.

[15] Freddie Mac, *Freddie Mac Update*, at http://www.freddiemac.com/investors/pdffiles/investor-presentation.pdfhttp://www.freddiemac.com/investors/pdffiles/investor-presentation.pdf.

[16] Fannie Mae, *Form 10-K,* p. 96, at http://www.fanniemae.com/resources/file/ir/pdf/quarterly-annual-results/2013/10k_2013.pdf.

The PATH Act would codify provisions that are currently in support agreements between Fannie Mae and Freddie Mac and the Treasury.[17]

Five years after enactment. Five years after enactment, the GSEs' charters would be repealed, unless the FHFA director determined that market conditions warranted a temporary extension.[18] After their charters are repealed, Fannie and Freddie would no longer have authority to conduct new business. FHFA, acting as receiver, would have the discretion to establish a receivership entity to assume the assets and liabilities of the GSEs after their charters are repealed. The federal government would explicitly guarantee the payment of certain outstanding liabilities.

Utility and Market Standards

The PATH Act would not create a new entity to guarantee MBS composed of conventional (non-government insured) mortgages. MBS composed of mortgages insured and guaranteed by the government, such as through FHA and the Department of Veterans Affairs (VA), would still be eligible to be explicitly guaranteed by Ginnie Mae under the PATH Act.

Market Utility. The PATH Act would create a charter for a non-government, not-for-profit National Mortgage Market Utility (Utility) that would facilitate mortgage securitization. After a selection process, FHFA would assign the Utility charter to the chosen applicant. The Utility would not provide a government guarantee on MBS or originate mortgages. The Utility would establish market standards and guidelines for the other participants in the securitization process. It would operate the common securitization platform currently being developed by the FHFA and GSEs. The common securitization platform would be a voluntary securitization tool that could be used by private-sector actors to facilitate the back-office functions of securitization, such as providing disclosures to investors and tracking the assignment of mortgage notes.[19] The platform would potentially allow the mortgage market to benefit from economies of scale and from the efficiency generated by the standards that would be set through the platform. FHFA would regulate the Utility.

A MBS securitized through the platform and composed of mortgages that meet the underwriting and disclosure requirements of the Utility would be deemed a q*ualified security*. The Utility would establish multiple categories of Qualified Securities based on the underlying credit risk of the mortgages that compose the Qualified Security. The different categories of Qualified Securities would allow investors to determine which MBS is commensurate with the level of risk they wish to assume. Tailoring risk to the preferences of investors could facilitate demand for Qualified Securities and potentially lead to lower rates for borrowers in the primary market.

Small Lender Access. The Utility would be open-access, not charging fees that vary by the size of the participants. To facilitate the use of the platform by community banks and credit unions, the

[17] For more information about the support agreements, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[18] The FHFA director shall extend the conservatorship if the spread between comparable conforming and non-conforming mortgages (a measure of private sector demand to provide credit) exceeds 80 basis points.

[19] Federal Housing Finance Agency, "Building a New Infrastructure for the Secondary Mortgage Market," October 4, 2012, at http://www.fhfa.gov/webfiles/24572/fhfasecuritizationwhitepaper100412final.pdf.

Federal Home Loan Banks[20] would be authorized to function as loan aggregators to pool loans from small institutions that could then be securitized through the platform.

Standards and Guidelines. The Utility would establish "rules of the road" for the securitization process. It would create standard securitization agreements to set the contractual terms between most of the major market participants (such as issuers, servicers, and investors). The Utility would also operate a National Mortgage Data Repository with publicly available mortgage data and mortgage-related documents.

Covered Bonds.[21] The PATH Act would direct financial regulators to implement regulations to create an oversight framework for covered bonds. Covered bonds are one method for financial institutions to raise funds from investors. They are rare in the United States, although variations of covered bonds have been used in Europe for centuries. A covered bond is a recourse debt obligation that is secured by a pool of assets, often mortgages. The holders of the bond are given additional protection in the event of bankruptcy or insolvency of the issuing lender. Covered bonds have some features, such as pooled mortgages, that resemble securitization, but the original lenders maintain a continuing interest in the performance of the loans. Although covered bonds are not a prohibited form of debt contract in the United States, some observers believe that legislation and agency rulemaking is required to facilitate the growth of a larger domestic covered bond market.[22]

FHA Reform

In recent years, increased default and foreclosure rates, as well as economic factors such as falling house prices, have contributed to increases in both the actual losses that FHA has incurred on insured loans and the anticipated losses that it expects to incur in the future. This increase in actual and expected losses has put pressure on FHA's insurance fund, and at the end of FY2013, FHA received $1.7 billion from Treasury to ensure that it has enough funds to pay for all of its expected future losses.[23]

Title II of the PATH Act includes many provisions intended to address FHA's financial condition by limiting the amount of risk it assumes, increasing the amount of capital that it is required to hold, and tightening certain mortgage standards. It also includes provisions to more narrowly target FHA's role in the mortgage market to certain types of homebuyers. In addition to making

[20] The Federal Home Loan Bank System is a government-sponsored enterprise that provides support to the mortgage market and to community development initiatives by lending to banks and other financial institutions that are members of the System. For more, see CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by Edward V. Murphy.

[21] This section was prepared using material from CRS Report R41322, *Covered Bonds: Background and Policy Issues*, by Edward V. Murphy.

[22] For information on previous actions by regulators to facilitate a covered bond market, see "Agency Actions on Covered Bonds" in CRS Report R41322, *Covered Bonds: Background and Policy Issues*, by Edward V. Murphy.

[23] FHA's single-family mortgage insurance program is supposed to bring in enough money through the fees, or premiums, that it charges for insurance to pay for the costs of any mortgage defaults. However, like all federal credit programs, FHA has permanent and indefinite budget authority to receive funds to pay for higher-than-expected future losses. The insurance fund for FHA's single-family programs is the Mutual Mortgage Insurance Fund (MMI Fund). Other types of mortgages, such as multifamily mortgages, are insured under other insurance funds. For more detailed information on the financial status of the MMI Fund, see CRS Report R42875, *The FHA Single-Family Mortgage Insurance Program: Financial Status and Related Current Issues*, by Katie Jones.

major changes to FHA's single-family insurance program, the PATH Act would also make some changes to other FHA insurance programs and, in some cases, mortgage programs for low-income households in rural areas that are administered by the U.S. Department of Agriculture (USDA).[24]

FHA Operations. FHA would become an independent agency outside of HUD, and FHFA would become the regulator for FHA and for the USDA's rural housing loan programs.

Eligible Borrowers. In general, FHA would only be allowed to insure mortgages for first-time homebuyers and low- and moderate-income borrowers. The required downpayment would be increased for all except first-time homebuyers to 5% from the current level of 3.5%. During periods of market stress and in areas affected by disasters, FHA would be permitted to guarantee more types of mortgages, potentially allowing FHA to step in to insure more mortgages when mortgage credit is otherwise not easily available.

Maximum Mortgage Amounts and Insurance Coverage. Under the PATH Act, the dollar limit on the original principal balance of a mortgage that FHA can insure would be decreased in certain areas. Furthermore, the percentage of the mortgage that FHA could insure would decrease to 50% of the original principal balance, from 100%, over five years.

Premiums. The PATH Act would establish a minimum annual premium of 0.55%, and FHA would be required to set its premiums high enough to cover its administrative costs and salaries as well as the cost of insurance and the capital that FHA has to hold in reserve. FHA would be allowed to set premiums that vary based on the risk characteristics of the mortgage.

Capital Requirements. FHA's financial reports would have to be prepared using private-sector accounting standards. The capital ratio—the amount of additional capital that FHA must hold in reserve to pay for any additional, unanticipated future losses, beyond what it holds to pay for expected losses—would be increased to 4% of its outstanding insurance obligations for mortgages insured after the end of a transition period. (Under current law, the required capital ratio is 2%.) If the capital ratio fell below certain thresholds, FHA would have to take certain steps, including submitting a capital restoration plan to FHFA and reducing the maximum loan-to-value ratio for new mortgages that it would insure while its capital ratio remained below the required level.

Lender Oversight. Lenders could be required to reimburse FHA for defaulted mortgages that did not meet its standards in certain circumstances. Lenders would also need to agree to repurchase mortgages that default soon after the mortgage was originated. FHA would be required to publish a consolidated handbook, updated annually, with all of its requirements for lenders and servicers.

Other FHA Programs. The PATH Act would require FHA to set affordability requirements to ensure that buildings with FHA-insured multifamily mortgages include units affordable to low- or moderate-income households. [25] FHA would be required to set capital ratios for its other

[24] In addition to insuring single-family mortgages, FHA also insures certain mortgages for multifamily buildings and healthcare facilities, as well as insuring reverse mortgages for senior citizens. The USDA's Rural Housing Services makes or guarantees certain types of mortgages under programs established under Title V of the Housing Act of 1949.

[25] For the purposes of FHA's mortgage insurance programs, multifamily properties are generally considered to be properties with five or more units, while single-family properties are properties with one to four units.

insurance funds.[26] FHA would be required to set certain limits and standards related to its Section 242 hospital insurance program, and FHA's reverse mortgage insurance program (the Home Equity Conversion Mortgage, or HECM) would be eliminated.

Other Provisions. After two years, 10% of new FHA single-family mortgage insurance, by dollar volume, would be required to be insured under risk-sharing agreements, whereby FHA would share the credit risk on the mortgage with other entities. FHA and USDA would be prohibited from backing mortgages in which seller concessions exceeded 3% and in areas that used eminent domain to obtain mortgages in the previous 10 years.

Other Provisions

The PATH Act would, among other things, modify recent financial reforms that some believe are preventing private institutions from providing mortgage credit.[27] For example, implementation of certain Basel III[28] bank regulation rules would be delayed so that regulators could study their effects on smaller institutions. Mortgages securitized through the platform would be exempt from certain Dodd-Frank Act provisions, such the Ability-to-Repay rule.[29] In addition, the effective dates for some of the Dodd-Frank mortgage market rulemakings would be delayed by at least a year to allow institutions more time to comply, and Dodd-Frank's credit risk retention requirement[30] would be repealed.

The Johnson-Crapo GSE Proposal

The Johnson-Crapo GSE proposal would wind down Fannie Mae and Freddie Mac and would replace FHFA with a new entity to be called the Federal Mortgage Insurance Corporation (FMIC). The FMIC would be an independent agency charged with supporting the mortgage market and providing reinsurance on eligible MBS. These MBS would have an explicit government guarantee, and the FMIC would regulate aspects of the mortgage market related to these MBS. The proposal would also establish a new multifamily housing finance system and method of funding affordable housing initiatives. The Johnson-Crapo GSE proposal is conceptually similar to the Corker-Warner bill; several of the differences are listed in this section.

The Johnson-Crapo GSE proposal has multiple key dates that serve as benchmarks for many of the actions that would be required. The *date of enactment* would be the date on which the act is enacted. The *agency transfer date* would be six months after enactment. On that date the FMIC would be established. The *system certification date* is the date on which the FMIC certifies that

[26] FHA-insured single-family mortgages, including reverse mortgages, are insured under the MMI Fund, whereas other types of FHA-insured mortgages, such as multifamily mortgages, are insured under other insurance funds. Under current law, the MMI Fund is the only one of FHA's insurance funds required to maintain a minimum capital ratio.

[27] The PATH Act would modify existing regulation beyond what is described in this section. This section provides several illustrative examples of regulations what would be modified or repealed.

[28] For additional information about Basel III bank regulation, see CRS Report R42744, *U.S. Implementation of the Basel Capital Regulatory Framework*, by Darryl E. Getter.

[29] For more information on the ability-to-repay rule, see CRS Report R43081, *The Ability-to-Repay Rule: Possible Effects of the Qualified Mortgage Definition on Credit Availability and Other Selected Issues*, by Sean M. Hoskins.

[30] For additional information, see CRS Report R42056, *Ability to Repay, Risk-Retention Standards, and Mortgage Credit Access*, by Darryl E. Getter.

the FMIC and the newly developed housing finance system have met certain benchmarks. The certification would not be later than five years after enactment, though there may be extensions.

Phase Out of Fannie Mae and Freddie Mac

Fannie Mae and Freddie Mac Wind Down. FHFA, in consultation with FMIC, would wind down Fannie Mae and Freddie Mac. The GSEs would develop resolution plans that would assist in their wind down. The Johnson-Crapo GSE proposal lays out the different steps that would be taken to wind down the GSEs' portfolios and their guarantee businesses. For their portfolio business, each GSE would have to reduce its mortgage portfolio by 15% annually until a certain allowable amount determined by FMIC is reached.[31] A similar reduction is currently required by the support agreements that Treasury entered into with Fannie Mae and Freddie Mac.[32] The legislation would take provisions that currently are in those contracts and make them law.

During the wind down period and while the new system is being established, Fannie Mae and Freddie Mac would be allowed to continue their guarantee businesses. On the system certification date, however, the GSEs would stop conducting new business. A holding corporation, trusts, and subsidiaries may be established to facilitate the winding down of Fannie Mae's and Freddie Mac's outstanding debt obligations and assets. The federal government would guarantee the repayment of the GSEs' obligations. FHFA would manage the wind down to maximize the return to taxpayers while ensuring a well-functioning mortgage market. Once the GSEs' guarantees are extinguished, the charters of the GSEs would be revoked.

Affordable Housing. The existing mandatory housing goals would be repealed upon enactment. As discussed below, affordable housing would be supported through contributions to the Housing Trust Fund, Capital Magnet Fund, and a new Market Access Fund from the proceeds of a fee on covered MBS.

FHFA Transition. On the agency transfer date, FHFA would operate as a distinct entity within FMIC. FHFA would continue to exercise its regulatory and conservatorship powers over Fannie Mae, Freddie Mac, and the Federal Home Loan Banks. On the system certification date, the functions of FHFA would be transferred to the FMIC. FHFA staff and assets would also be transferred to the FMIC.

Phase In of the FMIC and the New Housing Finance System

Organization. The FMIC would be an independent government agency with its management vested in a board of directors with five members. The board would be headed by a chairperson, appointed by the President with the advice and consent of the Senate, who shall serve a five-year term. The four additional board members would also be appointed by the President, with the advice and consent of the Senate, to serve five-year terms. The initial appointments would be for shorter, staggered terms. No more than three members of the board may be of the same political party.

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[31] As of the end of the second quarter of 2013, Freddie Mac had a mortgage portfolio of $521 billion and Fannie Mae had a mortgage portfolio of $565.2 billion.

[32] See CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

The FMIC would be structured with several offices, including an Office of Underwriting, Office of Securitization, Office of Consumer and Market Access, Office of Multifamily Housing, Office of Federal Home Loan Bank Supervision, and Office of the Inspector General. The FMIC may establish other offices as necessary to perform its functions.

FMIC Certification. The system certification date is the date on which the FMIC certifies that the FMIC and the newly developed housing finance system have met certain benchmarks. The benchmarks include ensuring that the new system has a sufficient number of approved participants, verifying that the Securitization Platform and the multifamily market are functioning, and the Department of the Treasury confirming that agreements are in place for the taxpayer to be compensated for assisting the GSEs and the housing finance system. The certification would be not later than five years after enactment, though extensions would be possible.

FMIC Guarantee. The FMIC would provide an explicit guarantee on MBS that meet its standards. To be eligible for an FMIC guarantee (for an MBS to be a *covered security)*, the MBS must (1) be collateralized by mortgages that meet its underwriting criteria, (2) the mortgages must be delivered to the Securitization Platform, and (3) private capital must be in a first-loss position. In unusual and exigent market conditions, MBS that do not meet the requirement for private capital may receive a guarantee for a limited time.

Underwriting Criteria. To receive the FMIC guarantee, the covered security must be collateralized by *eligible single-family mortgage loans*, which are loans that would be below the conforming loan limits set by the bill and would satisfy the underwriting criteria established by the Ability-to-Repay and Qualified Mortgage (QM) rule.[33] An eligible mortgage would also need to meet certain requirements related to downpayment (at least 3.5% for first-time homebuyers and, after a transition period, 5% for others), private mortgage insurance, and other conditions as determined by the FMIC.

Securitization Platform. Mortgage loans would be securitized through the Securitization Platform. The Platform would be a utility owned and operated by its members with membership open to the various participants in the housing finance system. The Platform would perform many of the back-office functions of securitization, such as processing payments and distributing disclosures to investors. The Platform may build off of FHFA's and the GSEs' current efforts to develop a common securitization platform.[34] The Platform would also develop standard securitization agreements to establish the contractual terms between most of the major market participants (such as aggregators, guarantors, servicers, and investors). The Platform may allow noncovered securities (MBS without the FMIC guarantee) to be securitized by the Platform. The Platform would be regulated by the FMIC.

Private Capital. To be eligible for the FMIC guarantee, an MBS would require a risk-sharing mechanism in which private capital would be in a first-loss position. The FMIC could approve different risk-sharing mechanisms which can be divided into two general categories—capital markets execution and guarantor execution. Under the capital markets execution, investors would

[33] For more information on the ability-to-repay rule, see CRS Report R43081, *The Ability-to-Repay Rule: Possible Effects of the Qualified Mortgage Definition on Credit Availability and Other Selected Issues*, by Sean M. Hoskins.

[34] Federal Housing Finance Agency, "Building a New Infrastructure for the Secondary Mortgage Market," October 4, 2012, http://www.fhfa.gov/webfiles/24572/fhfasecuritizationwhitepaper100412final.pdf.

agree to bear losses of at least 10% of the MBS's value prior to the government guarantee being triggered. Under the guarantor execution, guarantors that are approved by the FMIC would pay investors any shortcoming in the amount that the investors are owed (such as due to delinquencies of the mortgages in the MBS) until the guarantor is insolvent, at which point the government guarantee would be triggered. The guarantor would have to hold 10% capital. The government guarantee is triggered through the capital markets option based on the performance of a particular security, but the guarantee for the guarantor option is triggered based on the performance of an entity, the approved guarantor.

Mortgage Insurance Fund. The FMIC would cover the losses on guaranteed MBS that are in excess of the losses required to be borne by private capital. The FMIC would make payments to investors from the reserves held in a newly established Mortgage Insurance Fund (MIF). The MIF would be maintained and administered by the FMIC, and it would be financed primarily by MBS guarantee fees. The guarantee fees would be determined by the FMIC and set at levels necessary for the MIF to maintain its reserve balance. The MIF would be required to reach a reserve balance of 1.25% of the amount of securities insured within 5 years of the system certification and 2.50% within 10 years.

Regulation. The FMIC would approve and regulate the major entities in the new system.[35] Its powers and authorities would be modeled off of those available to the FDIC in its regulation of banks and its management of the Deposit Insurance Fund.[36] Among the entities that would be approved and regulated by the FMIC are guarantors, aggregators (entities that could purchase and pool mortgages in order to deliver them to the Platform for securitization), servicers, and private mortgage insurers.

Small Lender Mutual. The FMIC would establish a Small Lender Mutual that would help mortgage originators gain access to the secondary market and the FMIC guarantee. The mutual would be owned and operated by its members, with membership open to insured depository institutions with less than $500 billion in total assets, non-depositories with a minimum net worth of $2.5 million and annual originations of less than $100 billion, and other institutions, such as Community Development Financial Institutions[37] and certain non-profit lenders. FMIC could establish more than one mutual.

Affordable Housing. The legislation would replace Fannie Mae's and Freddie Mac's affordable housing goals with an annual fee on the covered MBS that would be directed to three different funds.[38] The fee, which would on average be 10 basis points[39] of the total outstanding principal balance of covered MBS, would be structured to provide participants with the incentive to focus more of their business on underserved market segments (such as traditionally underserved areas, including rural and urban areas, manufactured housing, and low- and moderate-income

[35] If an entity is an insured depository or an affiliate of an insured depository, that entity would continue to be regulated by its primary federal banking regulator, but the FMIC would have some regulatory authority.

[36] For more on the FDIC and deposit insurance, see CRS Report R41718, *Federal Deposit Insurance for Banks and Credit Unions*, by Darryl E. Getter.

[37] For additional information on CDFIs, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues*, by Sean Lowry.

[38] Section 506. For more information about the affordable housing goals, see CRS Report R42760, *Fannie Mae's and Freddie Mac's Financial Status: Frequently Asked Questions*, by N. Eric Weiss.

[39] One basis point equals 0.01%.

creditworthy borrowers). Participants that did relatively more of their business with underserved market segments would be charged a lower fee than those participants who did less business with underserved market segments.

FMIC would allocate 75% of the collected fees to HUD's Housing Trust Fund, 15% to Treasury's Capital Magnet Fund, and 10% to a newly created Market Access Fund. Under the Housing Trust Fund, HUD would provide formula grants to states to use primarily for rental housing activities that benefit very low- and extremely low-income households.[40] Under the Capital Magnet Fund, Treasury would award competitive funding to community development financial institutions (CDFIs) or non-profit housing organizations. [41] The funds would be used for rental or homeownership housing or related economic development activities that benefit low- and moderate-income households, with an emphasis on projects that will leverage other sources of funds. The new Market Access Fund would provide funds to support research and development or credit support for affordable homeownership and rental housing activities that benefit low- and moderate-income households and underserved or hard-to-serve populations. The Johnson-Crapo GSE proposal would also provide for a set-aside of funds to be awarded competitively to tribes under the Housing Trust Fund.

Multifamily Housing. The GSEs would transfer their multifamily businesses into subsidiaries of each company within one year of enactment and would continue to operate their primary multifamily programs.[42] FMIC would manage the disposition (e.g., the sale or spinning off) of the multifamily businesses on or before the system certification date. FMIC would also approve and supervise multifamily guarantors, requiring them to maintain a minimum capital buffer of 10%. Guarantors could guarantee and issue multifamily MBS. Similar to the single-family program, the FMIC guarantee would require private capital in a first-loss position. FMIC would approve risk-sharing methods and would allow the GSEs' current multifamily programs (which already use risk sharing) to be grandfathered as approved risk-sharing mechanisms.

Differences between the Johnson-Crapo GSE Proposal and S. 1217, the Corker-Warner Bill

The Johnson-Crapo GSE proposal and the Corker-Warner bill (which served as the base text for the Johnson-Crapo GSE proposal) are conceptually similar but differ in several ways.

Affordable Housing. Both proposals eliminate the GSEs' affordable housing goals and provide for affordable housing funds to be financed through a fee on covered MBS, but the nature of the fee charged and the allocation of funds would be somewhat different. Under Corker-Warner, the fee would be between 5 and 10 basis points. The Johnson-Crapo proposal would charge incentive-based fees (that on average are 10 basis points), rather than a flat fee, to encourage market

[40] The Housing Trust Fund was established by the Housing and Economic Recovery Act of 2008 (HERA, P.L. 110-289) but has never been funded. For more information on the Housing Trust Fund, see CRS Report R40781, *The Housing Trust Fund: Background and Issues*, by Katie Jones.

[41] The Capital Magnet Fund was also established by HERA (P.L. 110-289). It received funding once, through a discretionary appropriation in FY2010. For more information, see the Community Development Financial Institutions Fund website at http://www.cdfifund.gov/what_we_do/programs_id.asp?programID=11.

[42] The multifamily program used by Fannie Mae is the Delegated Underwriting and Servicing Lender Program (DUS) and for Freddie Mac it is the Capital Market Execution Program Series K Structured 2Pass-Through Certificates (Series K).

participants to do more business in underserved areas or with underserved borrowers. Under Corker-Warner, 80% of the contributions go to the Housing Trust Fund and 20% to the Capital Magnet Fund. However, Corker-Warner would make significant changes to the Housing Trust Fund, with the bulk of the Housing Trust Fund funding (60%) being used for activities similar to those under the Market Access Fund in the Johnson-Crapo GSE proposal—namely, support for rental and homeownership housing activities benefitting low- and moderate-income households. (Under current law, the Housing Trust Fund must primarily support rental housing for very low- and extremely low-income households.) Under the Johnson-Crapo proposal, 75% of contributions would go to the Housing Trust Fund, 15% to the Capital Magnet Fund, and 10% to the new Market Access Fund. The Johnson-Crapo proposal also includes a set-aside of funds to be awarded competitively to tribes under the Housing Trust Fund.

Underwriting. Both proposals model their underwriting criteria off of the CFPB's QM definition, and both also have downpayment requirements. The Corker-Warner bill would require a 5% downpayment minimum, but the Johnson-Crapo GSE proposal would allow a 3.5% downpayment for first-time homebuyers and 5% for non-first-time homebuyers. The Corker-Warner bill would reduce the conforming loan limit for high-cost areas whereas the Johnson-Crapo GSE proposal would keep the existing formula.

Small Lender Mutual. Both proposals would establish a small lender mutual. The Corker-Warner bill would limit membership for insured depositories to those with $15 billion or less in assets, whereas the Johnson-Crapo GSE proposal would expand eligibility for insured depositories to those with assets up to $500 billion.

System Certification. Both proposals would have a similar five-year transition period, but the Johnson-Crapo GSE proposal would institute benchmarks that would need to be satisfied prior to the certification of the system and would allow for extensions to the five-year timeline.

S. 1376, the FHA Solvency Act of 2013

The Johnson-Crapo bill (S. 1376) was reported out of the Senate Banking Committee on July 31, 2013. It proposes to make a number of changes to FHA aimed at strengthening its financial position. Most of these changes are aimed at ensuring that FHA's programs are financially sound, but do not focus on limiting FHA's market role or shifting risk to the private sector to the degree that the PATH Act does. For example, S. 1376 would not restrict FHA insurance to only first-time or low- and moderate-income homebuyers. It also would not make FHA an independent agency or reduce the percentage of the mortgage that FHA can insure.

Eligible Borrowers. FHA would be required to evaluate and revise its underwriting standards for mortgages using certain criteria, similar to the criteria for qualified mortgages.

Maximum Mortgage Amounts. GAO would be required to submit a study on the appropriate dollar limit on the maximum mortgage amount that FHA can insure.

Premiums. FHA would require a minimum annual premium of 0.55% and increase the maximum premiums that FHA can charge. FHA would be required to re-evaluate its premiums annually to ensure that they are adequate to maintain the capital ratio.

Capital Requirements. The capital ratio would be raised to 3% within 10 years. (Under current law, the required capital ratio is 2%.) If the capital ratio failed to meet certain thresholds, FHA would be required to take certain steps, including implementing premium surcharges for new borrowers and reporting to Congress on steps it was taking to restore the capital ratio. FHA would be required to undergo stress-testing based on the stress test model developed by the Federal Reserve for banks and report the results in its annual actuarial review. Congress would have to be notified within 48 hours if FHA used its authority for funding from Treasury for the single-family insurance fund.

Lender Oversight. Lenders could be required to reimburse FHA for defaulted mortgages that did not meet its standards in certain circumstances. FHA would be authorized to terminate lenders' approval on a nationwide basis, as well as in specific areas. FHA would be required to publish a consolidated guide with all of its requirements for lenders and servicers.

Other FHA Programs. The bill would require certain changes to FHA's reverse mortgage program, the Home Equity Conversion Mortgage (HECM) program, and would authorize FHA to make certain changes to the HECM program through administrative guidance documents for a period of time under certain conditions.

Other Provisions. FHA would be allowed to transfer mortgage servicing rights to specialty servicers under certain circumstances. FHA would be required to finalize its rules on seller concessions.[43]

Comparison of Major Provisions

Table 1 compares non-FHA related provisions in the PATH Act and the Johnson-Crapo GSE proposal. **Table 2** compares the FHA reforms in the PATH Act and the Johnson-Crapo FHA bill.

Table 1. Comparison of Non-FHA Provisions in H.R. 2767 and the Johnson-Crapo GSE Proposal

Topic	PATH Act (H.R. 2767)	Johnson-Crapo GSE Proposal
Fannie and Freddie Wind Down	The PATH Act would limit the GSEs' new mortgage purchases to those that meet the QM standard and would require the GSEs to share credit risk with the private sector. It would require the GSEs to continue to reduce their mortgage portfolio.	The Johnson-Crapo GSE proposal would allow the GSEs to continue to purchase and securitize mortgages until the system certification date. It would require the GSEs to continue to reduce their mortgage portfolio.
	Within five to seven years of enactment, FHFA would place the GSEs into receivership and repeal their charters. Certain outstanding GSE obligations would be guaranteed by the government.	The GSEs' charters would be revoked once the GSEs' guarantee obligations were extinguished. Certain outstanding GSE obligations would be guaranteed by the government.

[43] In July 2010, FHA issued a proposed rule to limit seller concessions to 3% of the lesser of the home's sale price or appraised value. In February 2012, it issued a revised proposed rule and asked for comments on the revisions. See Department of Housing and Urban Development, "Federal Housing Administration (FHA) Risk Management Initiatives: Revised Seller Concessions," 77 *Federal Register* 10695-10707, February 23, 2012.

Topic	PATH Act (H.R. 2767)	Johnson-Crapo GSE Proposal
Newly Established Entity	The PATH Act would establish the National Mortgage Market Utility, a non-government, non-profit entity that is privately managed. The Utility would operate the common securitization platform and would set standards and guidelines for the securitization process.	The Johnson-Crapo GSE proposal would establish the Federal Mortgage Insurance Corporation (FMIC) as an independent government agency. The FMIC would provide insurance for certain MBS and would oversee the Securitization Platform and new market participants. The Securitization Platform would set standards and guidelines for the securitization process.
Government Guarantee	The PATH Act would not create a new government guarantee on mortgages or MBS. It would keep in a narrowed form the existing government guarantee programs, i.e., FHA, VA, USDA Rural Housing, and Ginnie Mae.	The FMIC would provide a government guarantee on MBS that meet its requirements. The FMIC would only pay out on its guarantee after private capital absorbed the first losses.
FHFA	The PATH Act would have FHFA operate as the regulator of the Utility.	FHFA would initially be transferred as an independent entity within the FMIC. On the system certification date, the functions of FHFA would be transferred to the FMIC.
Market Standards	The PATH Act would require the Utility to develop standard securitization agreements that would establish the contractual terms between most of the major market participants.	Under the Johnson-Crapo GSE proposal, the Securitization Platform would develop standard securitization agreements that would establish the contractual terms between most of the major market participants.
Affordable Housing	The PATH Act would repeal the GSEs' affordable housing goals and the Housing Trust Fund.	The Johnson-Crapo GSE proposal would replace Fannie's and Freddie's affordable housing goals with an additional fee on covered securities that would be allocated to the Housing Trust Fund, Capital Magnet Fund, and Market Access Fund.
Mortgage-Related Financial Reform Regulations	The PATH Act would modify or repeal certain recent mortgage-related financial reforms.	Not addressed.

Source: Created by the Congressional Research Service (CRS) using information obtained from the Legislative Information System (LIS) available at http://www.congress.gov and the website of the Senate Banking Committee http://www.banking.senate.gov.

Table 2. Comparison of FHA Provisions in H.R. 2767 and S. 1376

Topic	PATH Act (H.R. 2767)	FHA Solvency Act (S. 1376)
FHA Structure	FHA would become an independent agency. FHFA would regulate FHA and the USDA rural housing programs. FHA's financial reports would have to use accounting methods used in the private sector.	No similar provisions; FHA would remain part of HUD.
Eligibility and Underwriting Standards	FHA insurance would be limited to first-time or low- and moderate-income homebuyers, and the downpayment would be increased to 5% for all but first-time homebuyers. FHA would be permitted to guarantee more types of mortgages during periods of market stress and in areas affected by disasters.	FHA would be required to evaluate and revise its underwriting standards for mortgages using certain criteria.
Maximum Mortgage Amount	The maximum dollar amount of a mortgage that FHA can insure would be decreased in some areas.	GAO would be required to submit a study on the appropriate dollar level for the maximum mortgage amounts.
Insurance Coverage	The share of a mortgage that FHA can insure would be reduced to 50% over five years.	No similar provision; the share of a mortgage that FHA can insure would remain at 100%.
Premiums	The PATH Act would set a minimum annual premium of 0.55% and allow FHA to set premiums that vary based on the credit risk of the mortgage. FHA would have to ensure that its premiums are high enough to cover administrative and personnel costs as well as the costs of insurance and maintaining the capital ratio.	The FHA Solvency Act would set a minimum annual premium of 0.55% and increase the maximum annual premiums that FHA can charge. FHA would have to re-evaluate its premiums annually to ensure that they are adequate to cover the costs of insurance and maintain the capital ratio.
Capital Requirements	The capital ratio would be increased to 4% of outstanding insurance-in-force. If the ratio fell below certain thresholds, FHA would be subject to certain restrictions on the mortgages it could insure. FHA would also be required to set capital ratios for its other insurance funds.	The capital ratio would be increased to 3% of outstanding insurance-in-force within ten years. If the ratio fell below certain thresholds, FHA would have to take certain actions, such as premium surcharges for new borrowers. FHA would be subject to stress tests based on the Federal Reserve's stress test model. Congress would have to be notified within 48 hours if FHA used its authority to draw funds from Treasury.

Topic	PATH Act (H.R. 2767)	FHA Solvency Act (S. 1376)
Lender Oversight	Under certain circumstances, lenders could be required to reimburse FHA for defaulted mortgages that did not meet its standards.	Under certain circumstances, lenders could be required to reimburse FHA for defaulted mortgages that did not meet its standards.
	Lenders would have to agree to repurchase certain mortgages that experience early defaults.	FHA could terminate lenders' approval on a nationwide basis, as well as in specific areas.
	FHA would be required to annually publish a manual, handbook, or guide that consolidates all of its origination and underwriting requirements for lenders and servicers.	FHA would be required to publish a single resource guide that consolidates all of its policies, processes, and procedures for lenders and servicers.
Other FHA Programs	Repeals the HECM program that provides FHA insurance on reverse mortgages.	Requires certain changes to the HECM program, and allows FHA to implement some changes administratively for a period of time.
	FHA would have to set requirements for buildings with FHA-insured multifamily mortgages to ensure that they include units affordable to low- or moderate income households.	
	FHA would be required to set certain limits and standards related to its mortgage insurance program for hospitals.	
Other	Seller concessions would be limited to 3% for FHA and USDA mortgages.	FHA would be required to finalize its rules on seller concessions (proposed rules limit seller concessions to 3%).
	After two years, 10% of FHA's new business would have to be insured pursuant to risk-sharing agreements with other entities.	FHA would be allowed to transfer mortgage servicing rights to specialty servicers under certain circumstances.
	FHA and USDA would be prohibited from backing mortgages in areas that used eminent domain to obtain mortgages in the past 10 years.	

Source: Created by CRS using information obtained from the Legislative Information System (LIS) available at http://www.congress.gov.

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