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Affordable Housing Provisions in Selected Housing Finance Reform Proposals

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Summary

Congress is considering different approaches to reforming the housing finance system. One of the major policy issues to emerge concerns the role of the federal government in supporting affordable housing for low- and moderate-income households. Much of this debate centers on Fannie Mae and Freddie Mac, two government-sponsored enterprises (GSEs). As GSEs, Fannie Mae and Freddie Mac are hybrid entities, private companies with congressional charters that contain special privileges and certain responsibilities to support affordable housing. Some argue that the hybrid nature of the GSEs—private companies with a public mission—leads to perverse incentives and, therefore, the government should instead support affordable housing primarily through existing government programs or agencies, such as the Federal Housing Administration (FHA). Others argue that the perverse incentives can be realigned such that private companies could be encouraged to support affordable housing in a responsible manner.

The GSEs' business model is intended to provide support to the broader mortgage market, but they take certain required actions that are geared primarily toward assisting low- and moderate-income households. The ways in which the GSEs currently support housing that is affordable to low- and moderate-income households provide one potential baseline to compare recent legislative proposals. This report discusses three major channels of support. First, since 1992 the GSEs have provided support through *affordable housing goals* mandated by Congress. The goals are numerical standards in which each GSE is required to dedicate a certain amount of its business on specified types of low-income borrowers and underserved areas. Second, in 2008 Congress also established for the GSEs a *duty to serve* requirement. Under the duty to serve requirement, the GSEs are required to provide leadership to assist low-income households in certain market segments: manufactured housing, affordable housing preservation, and rural markets. Third, in 2008 Congress also directed the GSEs to make contributions to two *affordable housing funds*, the Housing Trust Fund and the Capital Magnet Fund. The funds were intended to increase the supply of housing affordable to low-income households. The duty to serve regulation has not been finalized and the housing funds have not received contributions from the GSEs since the GSEs were placed into conservatorship.

Although three of the more prominent housing finance reform proposals—the Johnson-Crapo GSE Reform Proposal, the Housing Opportunities Move the Economy Forward Act proposal (HOME Forward Act), and the Protecting American Taxpayers and Homeowners Act (PATH Act, H.R. 2767)—would repeal the affordable housing goals and wind down the GSEs, they offer different approaches to supporting affordable housing in a reformed system. The PATH Act would not have a mandate or requirement for private actors to support affordable housing and would leave the support to existing government agencies and programs. The Johnson-Crapo GSE Reform Proposal and the HOME Forward Act differ in their details but offer similar approaches; they would impose a fee on certain mortgage-backed securities and direct that fee to the Housing Trust Fund, Capital Magnet Fund, and a newly established Market Access Fund. They would also have, among other provisions, affordability requirements in their proposed multifamily finance systems.

This report explains the ways in which the GSEs currently support affordable housing and describes the different affordable housing approaches contained in the reform proposals.

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Introduction

As Congress considers different approaches to reform the housing finance system, one of the major policy issues to emerge concerns the role of the federal government in supporting affordable housing for low- and moderate-income households. Much of this debate centers on Fannie Mae and Freddie Mac, two government-sponsored enterprises (GSEs).[1] As GSEs, Fannie Mae and Freddie Mac are hybrid entities, private companies with congressional charters that contain special privileges and certain responsibilities. Notably, Fannie Mae and Freddie Mac have traditionally been required to provide support for affordable housing in certain ways.

Although the most prominent proposals to reform the housing finance system—the Protecting American Taxpayers and Homeowners Act (PATH Act; H.R. 2767, Representative Garrett), the Housing Opportunities Move the Economy Forward Act proposal (HOME Forward Act, Representative Waters), and the Johnson-Crapo GSE Reform Proposal (Senator Johnson and Senator Crapo)[2]—agree on the need to dissolve the GSEs and eventually revoke their charters, there is disagreement on what should replace the GSEs. Part of the disagreement involves whether any entity that replaces the GSEs should be required to support affordable housing activities and, if so, what form such support should take. Some argue that the hybrid nature of the GSEs—private companies with a public mission—led to perverse incentives to lower underwriting standards in an effort to expand credit availability to low-income borrowers. Instead, they argue, in a future system the government should support affordable housing primarily through existing government programs or agencies with an explicit mission of supporting affordable housing, such as the Federal Housing Administration (FHA) and other programs administered by the Department of Housing and Urban Development (HUD). Others argue that the perverse incentives can be realigned such that private companies could be encouraged to support affordable housing and broad access to credit in a responsible manner.

This report explains the ways in which the GSEs currently support affordable housing and describes the different affordable housing approaches contained in the reform proposals. For a more general overview of the housing finance system, see CRS Report R42995, *An Overview of the Housing Finance System in the United States*, by (name redacted), (name redacted), and (name re dacted). For a more complete review of the housing finance reform proposals, see CRS Report R43219, *Selected Legislative Proposals to Reform the Housing Finance System*, by (name re dacted), (name redacted), and (name redacted).

What is Affordable Housing?

An issue of ongoing interest to Congress has been the availability of affordable housing that is of a decent physical quality. There can be many definitions of what constitutes "affordable," but one

[1] This report will use GSE to refer to Fannie Mae and Freddie Mac. Other entities that are not discussed in this report are also considered GSEs, such as the Federal Home Loan Banks (FHLBs). For more on the FHLBs, see CRS Report RL32815, *Federal Home Loan Bank System: Policy Issues*, by (name redacted).

[2] The analysis of the HOME Forward Act is based on the text available at http://democrats.financialservices.house.gov/FinancialSvcsDemMedia/file/003%20Maxine%20Waters%20Legislation/GSE%20Bill/WATERS_046_xml.pdf. The analysis of the Johnson-Crapo GSE Reform Proposal is based off of the text available at http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=512757b1-e595-4b85-8321-30d91e368849.

common definition classifies housing as affordable if a household is paying no more than 30% of its income toward housing costs. Households that pay more than 30% of their income for housing costs are considered to be cost burdened, and households that pay more than 50% of their income for housing costs are considered to be severely cost burdened. With a larger percentage of income going to housing costs, households that are cost burdened may have difficulty paying for other necessities.

Generally speaking, the lower a household's income, the harder it might be to find housing that is affordable. When the concept of affordable housing is discussed, it is usually in reference to housing that is affordable to low- or moderate-income households. Low-income households are commonly defined to be households with incomes at or below 80% of area median income (AMI). Very low-income households are defined as households with incomes at or below 50% of AMI, and extremely low-income households are defined as households with incomes at or below 30% of AMI. There is not a consistent definition of "moderate-income," which is defined differently in different contexts.

Affordable housing can be rental housing or owner-occupied housing. For the lowest income households, affordable housing will often be rental housing, because lower-income households might find it more financially feasible to rent rather than own their homes. Evidence shows that there is a shortage of rental housing that is physically adequate, affordable, and available to households at the lowest end of the income spectrum. (A unit is generally considered "available" to a household at a given income level if the unit is either currently occupied by a household at or below the same level of income or is vacant.) According to HUD, in 2011, there were about 93 adequate, affordable, and available rental units for every 100 low-income households. There were fewer adequate, affordable, and available rental units farther down the income spectrum: 57 units for every 100 very low-income households and 31 units for every 100 extremely low-income households.[3]

Affordable housing can also be owner-occupied housing, particularly for moderate-income households, households at the higher end of low income, or households in areas with little rental housing stock and inexpensive single-family housing (such as rural areas). When there is discussion of "affordable housing" in the context of homeownership, it is often in reference to ensuring that creditworthy households have opportunities to access mortgages on affordable terms. There has been particular concern about whether certain types of households are "underserved" by the mortgage market, meaning that they are less likely to be able to access affordable mortgages. Possible underserved market segments could include low- and moderate-income or minority households, households living in certain areas (such as neighborhoods with high concentrations of poverty or in rural areas), and households seeking less traditional types of housing, such as manufactured housing.

To address this perceived need for affordable rental and owner-occupied housing, Congress has established several federal programs designed to increase the availability of housing that is affordable to low-income households.[4] Most of these programs are administered by HUD, and they include rental assistance programs to support affordable rental housing and block grants that

[3] U.S. Department of Housing and Urban Development, "Worst Case Housing Needs 2011: Report to Congress," p. 15, http://www.huduser.org/Publications/pdf/HUD-506_WorstCase2011_reportv3.pdf.

[4] For more information on federal affordable housing programs, see CRS Report RL34591, *Overview of Federal Housing Assistance Programs and Policy*, by (name redacted), (name redacted), and (name redacted).

states and local governments can use for rental or owner-occupied housing.[5] Congress has also established programs to support access to affordable homeownership, such as by providing mortgage insurance through FHA. FHA insures mortgages made by private lenders to certain creditworthy borrowers who might otherwise have difficulty qualifying for affordable mortgages, such as households with small down payments. FHA traditionally serves many first-time homebuyers, low- and moderate-income households, and minority households. In addition to insuring single-family mortgages, FHA also insures mortgages on multifamily buildings (i.e., apartment buildings with five or more units), which can encourage lenders to offer multifamily mortgages on better terms and in turn increase the supply of affordable rental housing.

In addition to these programs and activities, Congress has also directed the GSEs to support affordable housing, primarily by purchasing both single-family and multifamily mortgages that provide affordable housing for low- and moderate-income households or households that are located in underserved areas.

The GSEs' Support for Affordable Housing

The GSEs' business model (see shaded box below) is intended to provide support to the broader mortgage market, but certain actions of the GSEs are geared primarily toward assisting low- and moderate-income households. This report focuses on the three main channels of support that are currently in statute, although only one of these channels has been fully operational for any length of time. The three channels focus on both affordable rental and owner-occupied housing to varying extents, but historically the GSEs' support for affordable housing has largely been more targeted to homeownership rather than rental housing.

The GSEs' Single-Family Guarantee

Fannie Mae and Freddie Mac do not originate mortgages. Instead, the GSEs purchase conforming mortgages—mortgages that meet their eligibility criteria—that are originated by the private sector. The GSEs either hold the mortgages in their own portfolios or pool the mortgages into mortgage-backed securities (MBS), which are sold to investors or retained by the GSEs as investments. The GSEs guarantee that investors in these MBS will receive timely payment of principal and interest even if the borrower becomes delinquent. The GSE guarantee transfers the credit risk (the risk that some borrowers might default and not repay their mortgages on time) from the investors to the GSEs. To compensate the GSEs for their guarantee, the GSEs receive a guarantee fee. The GSE guarantee makes their MBS more easily traded and worth more to investors, increasing their demand for MBS. The support provided by the GSEs in the secondary market can translate to lower rates for borrowers in the primary market.

First, the GSEs have been directed to provide support through affordable housing goals mandated by Congress since 1992. The goals are numerical standards in which each GSE is required to focus a certain amount of its business on specified types of low-income borrowers and areas that are considered to be underserved by the mortgage market. Originally, the specific goals were set by HUD, but since 2008 they have been set by the GSEs' regulator, the Federal Housing Finance Agency (FHFA).

Second, Congress in 2008 established a "duty to serve" requirement for the GSEs. Under the duty to serve requirement, the GSEs are required to provide leadership to assist low-income

[5] Some housing programs or activities, such as the Low-Income Housing Tax Credit (LIHTC), are administered by agencies other than HUD. The Department of Agriculture also administers several programs related to housing in rural areas, and the Department of Veterans Affairs administers housing programs targeted to veterans.

households in the manufactured housing, affordable housing preservation, and rural markets. Although FHFA published a proposed rule on the duty to serve requirement in 2010, a final rule has not yet been promulgated.

Third, also in 2008, Congress directed the GSEs to make contributions to two affordable housing funds, the Housing Trust Fund and the Capital Magnet Fund. The funds were intended to increase the supply of housing affordable to low-income households, with a particular focus on rental housing. These contributions were suspended shortly after the GSEs were placed in conservatorship, and the GSEs have not made contributions to these affordable housing funds to date.

Affordable Housing Goals

The Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (FHEFSSA; P.L. 102-550) established three numerical affordable housing goals for the GSEs: a low- and moderate-income goal, an underserved areas goal, and a special affordable housing goal. The Housing and Economic Recovery Act of 2008 (HERA; P.L. 110-289) replaced the previous housing goals with new single-family and multifamily goals for new categories of borrowers.

Under the affordable housing goals established by HERA, each GSE is required to focus a certain amount of its business on specified types of borrowers. By purchasing mortgages that are made to lower-income borrowers, some argue, the GSEs can increase homeownership rates among segments of the population that are less likely to own their home. The "Effectiveness of GSE Affordable Housing Goals" section of this report provides a review of the research on the effectiveness of the GSEs in boosting homeownership for low-income households.

The single-family goals established by HERA are the[6]

- *low-income home purchase goal*, which targets households with incomes no greater than 80% of Area Median Income (AMI) who are purchasing homes;
- *very low-income home purchase goal*, which targets households with incomes no greater than 50% of AMI who are purchasing homes;
- *low-income areas home purchase subgoal*, which targets households purchasing homes in (1) low-income census tracts, with median income no greater than 80% of AMI, and (2) high-minority tracts, with minority population at least 30% and tract median income less than 100% of AMI if borrower income does not exceed 100% of AMI;
- *low-income areas home purchase goal*, which includes the low-income area home purchase subgoal plus home purchase mortgages on properties in federally declared disaster areas if borrower income does not exceed 100% of AMI; and
- *low-income refinance goal*, which targets households with incomes no greater than 80% of AMI who refinance their mortgage.

The GSEs can satisfy each of the single-family affordable housing goals in one of two ways, either (1) by meeting the prospective benchmark that is set in advance by FHFA for the goal

[6] See FHFA, *Housing Mission and Goals*, at http://www.fhfa.gov/Default.aspx?Page=135.

(Benchmark Level) or (2) by having "the goal category's share of the Enterprise's business for the year [be] at least as great as the category's share of the overall market" (Market Level).[7] For example, if the Benchmark Level set by FHFA for the low-income home purchase goal in 2012 is 23% but, in retrospect, it turns out that home purchases by low-income households made up 26.6% of the total market in 2012, then a GSE could satisfy the goal if the share of its total purchases that were low-income home purchases exceeded either the Benchmark Level or the Market Level.

Table 1 shows Fannie Mae's and Freddie Mac's performance for the single-family housing goals using both performance metrics for 2012. Fannie Mae met each goal by performing above the Benchmark Level, though it met the Market Level for only the low-income areas home purchase goal. Freddie Mac also met each goal by performing above the Benchmark Level; it performed above the Market Level for the low-income areas home purchase goal and the low-income refinance goal.

Table 1. GSE Performance in Single-Family Affordable Housing Goals

	2012	2012	Official Goal Performance	
Goal Category	**Benchmark Level**	**Market Level**	**Fannie Mae**	**Freddie Mac**
Low-income home purchase	23%	26.6%	25.6%	24.4%
Very low-income home purchase	7%	7.7%	7.3%	7.1%
Low-income areas home purchase goal	20%	20.5%	22.3%	20.6%
Low-income areas home purchase subgoal	11%	13.6%	13.1%	11.4%
Low-income refinance	20%	22.3%	21.8%	22.4%

Source: Letter from Sandra Thompson, FHFA Deputy Director, Housing Mission and Goals, to Mr. Timothy J. Mayopoulos, President and CEO, Fannie Mae, October 28, 2013, at http://www.fhfa.gov/webfiles/25774/FNM_-_2012_Performance.pdf and Letter from Sandra Thompson, FHFA Deputy Director, Housing Mission and Goals, to Mr. Donald Layton, President and CEO, Freddie Mac, October 28, 2013, at http://www.fhfa.gov/webfiles/25775/FRE_-_2012_Performance.pdf.

In addition to the single-family goals, the GSEs must also satisfy two multifamily goals. To the extent that poorer families are more likely to rent than own their homes, the multifamily goals are more likely to benefit such households than the single-family goals. The multifamily goals are the[8]

- *low-income multifamily goal*, which is the number of units in multifamily properties that are financed by a GSE that are affordable to households with incomes no greater than 80% of AMI; and

[7] Edward J. DeMarco, *Women in Housing and Finance Public Policy Luncheon*, FHFA, February 18, 2010, p. 6, at http://www.fhfa.gov/webfiles/15411/FINAL_2-18_WHF_Speech.pdf. Additionally, purchases of private-label securities do not receive credit towards the housing goals.

[8] See FHFA, *Housing Mission and Goals*, at http://www.fhfa.gov/Default.aspx?Page=135.

- *very-low income multifamily goal*, which is the number of units in multifamily properties that are financed by a GSE and that are affordable to households with incomes no greater than 50% of AMI.

Unlike the single-family goals, the multifamily goals can only be satisfied by meeting a Benchmark Level set by FHFA and do not have a Market Level compliance option. To satisfy the Benchmark Level for a goal, each GSE must finance a minimum number of units that meet the requirements of that goal. **Table 2** shows Fannie Mae's and Freddie Mac's performance for the multifamily housing goals using both performance metrics for 2012. Both GSEs satisfied each goal.

Table 2. GSE Performance in Multifamily Affordable Housing Goals

	2012 Goal (in units)		Official Goal Performance	
Goal Category	**Fannie Mae**	**Freddie Mac**	**Fannie Mae**	**Freddie Mac**
Low-income multifamily	285,000	225,000	375,924	298,529
Very low-income multifamily	80,000	59,000	108,878	60,084

Source: FHFA, *Housing Mission and Goals*, at http://www.fhfa.gov/Default.aspx?Page=135.

The GSEs are also required to report to FHFA their purchases of mortgages in small multifamily properties (5 to 50 units), though there is not an official goal.

If a GSE fails to meet one of its goals and FHFA determines that the goal was feasible, FHFA may require the GSE to submit a housing plan that describes the actions the GSE will take to meet the goal in the following year. If the GSE fails to comply with the housing plan, FHFA may issue a cease-and-desist order or impose civil money penalties.[9]

Duty to Serve

HERA also established for the GSEs a *duty to serve* requirement. It requires each GSE to "provide leadership to the market in developing loan products and flexible underwriting guidelines to facilitate a secondary market for mortgages for very low-, low-, and moderate-income families" in three markets that are deemed to be underserved: manufactured housing, affordable housing preservation, and rural markets.[10] For example, the GSEs could assist the affordable housing preservation market by refinancing loans on multifamily properties that, without favorable financing, may convert to market rate rents.[11] HERA requires FHFA to establish a method for evaluating whether the GSEs satisfy the requirement for each market and to evaluate the GSEs using the chosen method. The evaluation should take into consideration

[9] P.L. 110-289, Section 1130.

[10] P.L. 110-289, Section 1129.

[11] Federal Housing Finance Agency, "Enterprise Duty To Serve Underserved Markets," 75 *Federal Register* 32105, June 7, 2010.

- "the development of loan products, more flexible underwriting guidelines, and other innovative approaches to providing financing to each of such underserved markets;"
- "the extent of outreach to qualified loan sellers and other market participants in each of such underserved markets;"
- "the volume of loans purchased in each of such underserved markets relative to the market opportunities available to the enterprise, except that the Director shall not establish specific quantitative targets nor evaluate the enterprises based solely on the volume of loans purchased;" and
- "the amount of investments and grants in projects which assist in meeting the needs of such underserved markets." [12]

FHFA issued a proposed rule[13] in 2010 for the duty to serve requirement, but a final rule has not been promulgated.

The Housing Trust Fund and the Capital Magnet Fund

The third method by which the GSEs were to support affordable housing is through contributions to two new affordable housing funds, the Housing Trust Fund and the Capital Magnet Fund. The funds were established by HERA and were intended to increase the supply of housing that is affordable to low-, very low-, and extremely low-income households. However, critics of the funds have argued that they are duplicative of other federal programs that provide funding for affordable housing, and that the funds could potentially be used as "slush funds" for special interest groups.[14]

The Housing Trust Fund, which is administered by HUD, would provide formula funding to states to provide housing (primarily rental housing) for very low- and extremely low-income households. For years, affordable housing advocates had argued for the establishment of a national housing trust fund that would be funded through a dedicated funding source, rather than through appropriations, and that would be focused on increasing the supply of rental housing available to households at the lowest end of the income spectrum.[15]

The Capital Magnet Fund, which is administered by the Department of the Treasury's Community Development Financial Institutions (CDFI) Fund, provides competitive funding to nonprofit

[12] P.L. 110-289, Section 1129.

[13] Federal Housing Finance Agency, "Enterprise Duty To Serve Underserved Markets," 75 *Federal Register* 32099, June 7, 2010.

[14] For example, see Norbert J. Michel and John L. Ligon, "GSE Reform: Trust Funds or Slush Funds?," The Heritage Foundation Issue Brief #4080 on Housing, November 7, 2013, http://www.heritage.org/research/reports/2013/11/gse-reform-affordable-housing-trust-funds-or-slush-funds.

[15] The idea of an affordable housing fund was not new. Many states and local jurisdictions have their own affordable housing trust funds. Furthermore, the Federal Home Loan Banks (FHLBs), a third GSE, are required to set aside 10% of their net income each year for an Affordable Housing Program (AHP). Through the AHP, the FHLBs provide competitive funds to member institutions (which partner with housing developers or other entities) to help fund the purchase, construction, or rehabilitation of homeownership and rental housing for low- and moderate-income households. Funds can also be used for activities to help individuals purchase homes, such as down payment assistance and interest rate buy-downs.

housing organizations for affordable housing primarily for low-, very low-, and extremely low-income households. A major goal of the Capital Magnet Fund is to leverage the funds to attract additional funding for affordable housing development.

Both the Housing Trust Fund and the Capital Magnet Fund were to be funded through contributions from Fannie Mae and Freddie Mac. Specifically, the GSEs were directed to contribute 4.2 basis points (that is, 0.042%, or .042 cents for each dollar) of the unpaid principal balance of the new mortgages they purchased each year. Ultimately, 65% of those contributions were to go to the Housing Trust Fund and 35% to the Capital Magnet Fund.[16] However, the law also required the Director of FHFA to suspend the contributions under certain circumstances related to the GSEs' financial status.[17] In September 2008, Fannie Mae and Freddie Mac were placed into conservatorship, where they have remained since. In November of that year, just a few months after HERA had been enacted, FHFA directed Fannie Mae and Freddie Mac to suspend their contributions to the affordable housing funds. Neither GSE had begun making contributions at the time that the contributions were suspended. The Housing Trust Fund has not received any funding to date. The Capital Magnet Fund received one appropriation, in FY2010, for $80 million, which is the only funding it has received to date.

The following subsections describe in more detail the structure of the Housing Trust Fund and the Capital Magnet Fund, respectively, based on current law and regulations.

Housing Trust Fund

The Housing Trust Fund would provide funds to states to use to increase housing opportunities for extremely low-and very low-income renters and homeowners.[18] The funds would be distributed by formula. By statute, the formula takes into account several factors related to a state's need for housing that is affordable to very low- and extremely low-income households. Specifically, the formula takes into account

- the relative number of affordable standard rental units available to extremely low-income renter households in a state (this factor is given "priority emphasis");
- the relative number of affordable standard rental units available to very low-income renter households in a state;
- the relative number of extremely low-income renter households living in homes that lack complete kitchen or plumbing facilities, experiencing overcrowding (more than one person per room), or spending more than 50% of income on housing costs in the state; and

[16] Some of the GSEs' contributions were also originally intended to support the Hope for Homeowners program that was established by HERA to assist certain mortgage borrowers who were in danger of foreclosure. The portion of the contributions that was to be diverted to Hope for Homeowners was intended to decline over several years, and any of the GSE contributions that were provided to Hope for Homeowners but were not ultimately needed for that program were to revert back to the affordable housing funds.

[17] Namely, the contributions could be suspended if the Director found that the contributions (1) were contributing, or would contribute, to a GSE's financial instability; (2) were causing, or would cause, a GSE to be classified as undercapitalized; or (3) were preventing, or would prevent, a GSE from successfully completing a capital restoration project.

[18] For more information on the Housing Trust Fund, see CRS Report R40781, *The Housing Trust Fund: Background and Issues*, by (name redacted).

- the relative number of very low-income renter households spending more than 50% of income on rent in a state.

The sum of these factors would then be multiplied by the relative cost of construction in the state to arrive at a grant amount. Each state, by statute, would receive a minimum grant amount of $3 million.[19] States could designate an entity, such as a housing finance agency, a housing and community development agency, or a tribally designated housing entity, to administer funds that it received from the Housing Trust Fund. The state grantee would ultimately award funds to recipients, which would be for-profit or nonprofit organizations with relevant affordable housing experience.

Funds from the Housing Trust Fund must be used primarily to provide rental housing for extremely low- and very low-income families. Funds could be used to produce, preserve, rehabilitate, or operate rental housing, or to produce, preserve, or rehabilitate homeownership housing (including activities such as providing down payment assistance). At least 80% of a state's grant amount would have to be used for rental housing, and no more than 10% could be used for homeownership. (Based on HUD's proposed rule on the program, up to 10% of a grant amount could be used for administrative costs.)[20]

All funds would have to be used to benefit households that are at least very low-income, and the majority of the funding would have to be used to benefit households that have extremely low incomes. Specifically, at least 75% of amounts used for *rental housing* would have to be used to benefit households that are extremely low-income, while the remainder of funds used for rental housing and any funds used for homeownership could be used to benefit households that are very low-income.

By statute, no funds could be used for political activities, advocacy, lobbying, counseling services, travel expenses, or preparing or providing advice on tax returns.

Capital Magnet Fund

Unlike the Housing Trust Fund, which would provide funds via formula, the Capital Magnet Fund provides competitive funds to affordable housing organizations. To be eligible for funding, an organization must be a CDFI or a qualified nonprofit organization that has the development or management of affordable housing as one of its principal purposes.[21] The Capital Magnet Fund is intended to leverage private capital and support for investment in housing primarily for low-, very-low, and extremely low-income households.

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[19] Under the Housing Trust Fund statute, the term *state* generally includes the 50 states, the District of Columbia, and the territories and possessions of the United States, including Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa. However, the $3 million minimum grant amount would only apply to the 50 states and the District of Columbia.

[20] Department of Housing and Urban Development, "Housing Trust Fund; Proposed Rule," 75 *Federal Register* 66978-67009, October 29, 2010.

[21] CDFIs are specialized financial institutions (such as community development banks, credit unions, or venture capital funds) that provide financial products and services in low-income areas. Activities that CDFIs engage in include mortgage financing for low-income and first-time homebuyers and nonprofit developers and other types of financial assistance. For more information on CDFIs, including a brief discussion of the Capital Magnet Fund, see CRS Report R42770, *Community Development Financial Institutions (CDFI) Fund: Programs and Policy Issues*, by (name redacted).

Similarly to the Housing Trust Fund, funds from the Capital Magnet Fund can be used to develop, preserve, rehabilitate, or purchase affordable housing. Unlike the Housing Trust Fund, funds from the Capital Magnet Fund can also be used to help finance economic development activities or community service facilities (such as day care centers or health clinics). Funds from the Capital Magnet Fund must primarily benefit low-income households (including very low- and extremely low-income households); no specific amount must be used to benefit very low- or extremely low-income households.[22] An interim rule published by Treasury requires that awardees using funds for affordable housing activities must ensure that more than 50% of eligible project costs (i.e., costs funded through the Capital Magnet Fund or related leveraged funds) are used for housing that is affordable to low-, very low-, and extremely low-income households, and that all eligible project costs are used for housing that is affordable to households with incomes no higher than 120% of AMI.

A major focus of the Capital Magnet Fund is to leverage funding for affordable housing activities. Therefore, the statute directs the Treasury Secretary to seek to fund projects that will have total costs that are at least 10 times the amount of funds received from the Capital Magnet Fund. Some of the types of activities that can be funded include capitalizing revolving loan funds or affordable housing funds, providing loan loss reserves, and offering risk-sharing loans. Treasury limited the amount of an awardee's grant that can be used for economic development or community service facilities to 30%, and limited the amount that can be used for administrative expenses to 5%.[23] Like the Housing Trust Fund, the statute prohibits funds from being used for political activities, advocacy, lobbying, travel expenses, preparing or providing advice on tax returns, or counseling.[24]

Although the Capital Magnet Fund has never received funding from the GSEs, it has received funding once, through a discretionary appropriation of $80 million in the Consolidated Appropriations Act, 2010 (P.L. 111-117).[25] The CDFI Fund received 230 applications for that funding, requesting a total of $1 billion. Ultimately, 23 grantees in 14 states received grants in amounts ranging from $500,000 to $6 million.[26] Nine of the awardees were CDFIs, 13 were nonprofit housing organizations, and one was a tribal housing authority.[27] The funds were expected to potentially serve households in 38 states and the District of Columbia. Fourteen of the

[22] See Department of the Treasury, Community Development Financial Institutions Fund, "Capital Magnet Fund," 75 *Federal Register* 75384, December 3, 2010.

[23] Department of the Treasury, Community Development Financial Institutions Fund, "Notice of Funds Availability," 75 *Federal Register* 12422-12431, March 15, 2010 and Department of the Treasury, Community Development Financial Institutions Fund, "Capital Magnet Fund," 75 *Federal Register* 75376-75389, December 3, 2010.

[24] The interim rule published by the CDFI Fund governing the Capital Magnet Fund would also prohibit funds from being used for certain kinds of housing facilities (namely, emergency shelters, nursing homes, convalescent homes, residential treatment facilities, correctional facilities, and student dormitories). See 12 CFR § 1807.302.

[25] This one-time funding for the Capital Magnet Fund was provided as a discretionary appropriation in the Consolidated Appropriations Act, 2010 (P.L. 111-117), not through GSE contributions. This is the only funding that the Capital Magnet Fund has received to date, through the appropriations process or otherwise.

[26] A list of awardees is available on the CDFI Fund's website at http://www.cdfifund.gov/docs/2010/cmf/AWARDLIST_CDFI_CMF_2010.pdf. Descriptions of how awardees intended to use the funds are also available on the website at http://www.cdfifund.gov/docs/2010/cmf/CDFI_CMF_WEB.pdf.

[27] Community Development Financial Institutions Fund, United States Department of the Treasury, "Highlights of Award Round," at http://www.cdfifund.gov/docs/2010/cmf/AWARDEEHIGHLIGHTS_CDFI_CMF_2010.pdf.

awardees, and more than 20% of the funds awarded, were expected to serve non-metropolitan areas.[28]

While the Housing Trust Fund and the Capital Magnet Fund share a similar purpose—expanding the supply of affordable housing for lower-income households—there are several differences between the two programs. These include differences in how the funds are distributed, the income groups they target, and the degree to which they focus on rental or homeownership housing. **Table 3** at the end of this report summarizes some of the major differences between these two programs under current law.

Effectiveness of GSE Affordable Housing Goals

Much of the research on the GSEs' support for affordable housing focuses on the extent to which the GSEs increase homeownership rates for certain segments of the market. Some analysts, however, take a broader perspective on the GSEs' affordable housing initiatives, arguing that the GSEs' support for affordable housing had severe negative effects for the broader economy. In his dissent to the Financial Crisis Inquiry Commission, Peter Wallison contends that the government's efforts to increase homeownership for low- and moderate-income households through the GSEs and other channels led to perverse incentives, which "caused underwriting standards to decline, increased the numbers of weak and high risk loans far beyond what the market would produce without government influence, and contributed importantly to the growth of the 1997-2007 housing bubble."[29] By directing the GSEs to have a larger share of their business focus on lower-income borrowers, the argument goes, the government gave lenders the incentive to make riskier loans because those lenders knew they would be able to sell some or all of those loans to the GSEs. Furthermore, to the extent that some of these loans resulted in foreclosure, the goals could have resulted in financial harm to the population they were designed to help.

The role of the GSEs in the financial crisis is a contested issue, a full discussion of which is beyond the scope of this report. However, one of the narrower questions that is a part of the argument made by Wallison and others—to what extent did the GSEs' affordable housing goals lead to increased lending to low-income households?—has been widely examined in the research literature and may be useful in assessing the legislative proposals described later in this report. The general consensus of the research literature is that the GSEs appear to have had a limited effect on lending to low-income households.

A 2007 speech by former Chairman of the Federal Reserve Ben Bernanke cited a study by Dwight Jaffe and John Quigley which concluded that a "substantial literature has now developed analyzing the efficacy of HUD housing goals for promoting home ownership among lower-income families. The consensus conclusion is that the affordable housing goals (AHGs) have achieved very little in terms of increasing homeownership among low-income families."[30] (The goals are referred to as "HUD housing goals" because HUD set the numerical targets at the time.)

[28] Ibid.

[29] Peter Wallison, *Dissenting View*, Financial Crisis Inquiry Commission, p. 444.

[30] Chairman Ben S. Bernanke, *GSE Portfolios, Systemic Risk, and Affordable Housing*, Federal Reserve Board, March 6, 2007, at http://www.federalreserve.gov/newsevents/speech/bernanke20070306a.htm.

Similarly, a 2011 paper by Karen Dynan and Ted Gayer of the Brookings Institution summarized in more detail recent analyses of the GSEs and affordable housing:[31]

> As for the benefits of assigning the GSEs an affordable housing mission, the available evidence suggests that the GSEs—despite meeting their affordable housing goals—had only limited effects on the supply of affordable housing (Congressional Budget Office, 2010). In a case study of underserved markets in the Cleveland area, Freeman, Galster, and Malega (2006) found little relationship between the degree of GSE secondary-market purchases of mortgages and home price appreciation. Gabriel and Rosenthal (2005) presented evidence suggesting that almost all of the sizable increase in homeownership in the 1990s can be attributed to household characteristics rather than policies to lift credit barriers. Bostic and Gabriel (2006) studied the effects of GSE activities on homeownership rates, vacancy rates, and median house values in California, and found only limited evidence of improved housing market performance. Other studies suggesting that the GSEs have not had a significant or sizable impact on homeownership among low-income and other underserved families include Feldman (2002) and Ambrose and Thibodeau (2004).

In addition, two staff working papers by the Federal Reserve analyzed the effect of the Underserved Areas Goal (one of the affordable housing goals in place prior to HERA).[32] Bhutta concluded that the Underserved Areas Goal "has had only a limited effect on GSE purchases and total mortgage credit flow" while Bolotnyy—using a more comprehensive data set—found a smaller effect on affordable housing than Bhutta.

Levitin and Ratcliffe,[33] taking a broader perspective on efforts to support affordable housing, analyzed the GSEs' housing goals and the Community Reinvestment Act (CRA), which is intended to incentivize banks to provide credit in low- and moderate-income neighborhoods.[34] The authors argue that though the efforts may have had a positive but modest effect on expanding credit availability, they "may have affected the credit availability in [low-to-moderate income] and minority communities in a qualitative manner. If [the housing goals and CRA] did not exist, there would likely be housing finance available, but less of it, and it would be qualitatively different."[35]

The studies cited above analyzed the pre-HERA goals' effects on homeownership. It is possible that the goals instituted by HERA may be more effective and better target low-income households. A 2010 study by CBO, however, notes that the mechanism through which the GSEs

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[31] Karen Dynan and Ted Gayer, "The Government's Role in the Housing Finance System: Where Do We Go from Here?," Brookings Insitution, April 14, 2011, at http://www.brookings.edu/~/media/research/files/papers/2011/2/11%20housing%20finance%20dynan%20gayer/0211_housing_finance_dynan_gayer.pdf.

[32] Neil Bhutta, "GSE Activity and Mortgage Supply in Lower-Income and Minority Neighborhoods: The Effect of the Affordable Housing Goals," Federal Reserve Staff Working Paper, 2009, at http://www.federalreserve.gov/pubs/feds/2009/200903/revision/200903pap.pdf and Valentin Bolotnyy, "The Government-Sponsored Enterprises and the Mortgage Crisis: The Role of the Affordable Housing Goals," Federal Reserve Staff Working Papers, 2012, at http://www.federalreserve.gov/pubs/feds/2012/201225/201225pap.pdf.

[33] Adam J. Levitin and Janneke H. Ratcliffe, "Rethinking Duties to Serve in Housing Finance," Joint Center for Housing Studies, Harvard University, October 2013, http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/hbtl-12.pdf.

[34] For more on the Community Reinvestment Act, see CRS Report RL34049, *The Community Reinvestment Act: Regulatory Developments and Issues*, by (name redacted).

[35] Adam J. Levitin and Janneke H. Ratcliffe, "Rethinking Duties to Serve in Housing Finance," Joint Center for Housing Studies, Harvard University, October 2013, p. 24, at http://www.jchs.harvard.edu/sites/jchs.harvard.edu/files/hbtl-12.pdf.

support homeownership (reducing interest rates) may not be the most effective in helping low-income households because down payment requirements may be more of a barrier to homeownership for lower-income families making their first home purchase: "Mortgage purchases that satisfy the goals for low- and moderate-income borrowers help those borrowers by reducing the interest rates they pay and by making credit more available than it would be otherwise. But small reductions in interest rates have only marginal effects on rates of home ownership, in part because down payments appear to be a bigger obstacle for first-time buyers."[36]

Legislative Proposals

As Congress considers different proposals to reform the housing finance system, it is faced with several broad questions related to affordable housing. Among other things, some of these questions may include the following:

- Should any entity that replaces the GSEs be required to support affordable housing in some way or should any federal support for affordable housing be left to existing government programs?
- If a new entity is required to support affordable housing, what form should that support take?
- To the extent that a new entity supports affordable housing, should that support be geared towards rental housing, homeownership, or both?
- To the extent that a new entity supports affordable housing, should that support target specific market segments, such as certain types of households (e.g., low-income households or moderate-income households), certain geographic areas (e.g., rural areas or low-income or minority neighborhoods) or certain types of housing (e.g., manufactured housing or preservation of affordable rental units)?
- To the extent that a new entity supports affordable housing, should that support be provided directly, encouraged through incentives for the private market to serve certain types of market segments, or provided through some other approach?

The different answers to these questions have led to different policy proposals. This section analyzes the affordable housing provisions of three of the more prominent housing finance reform proposals: the PATH Act (H.R. 2767), the Johnson-Crapo GSE Reform Proposal, and the HOME Forward Act proposal. While the PATH Act has been introduced, the other proposals have been released as discussion drafts as of the date of this report. [37]

[36] Congressional Budget Office, *Fannie Mae, Freddie Mac, and the Federal Role in the Secondary Mortgage Market*, December 2010, p. 24, http://www.cbo.gov/sites/default/files/cbofiles/ftpdocs/120xx/doc12032/12-23-fanniefreddie.pdf.

[37] The analysis of the HOME Forward Act is based on the text available at http://democrats.financialservices.house.gov/FinancialSvcsDemMedia/file/003%20Maxine%20Waters%20Legislation/GSE%20Bill/WATERS_046_xml.pdf. The analysis of the Johnson-Crapo GSE Reform Proposal is based off of the text available at http://www.banking.senate.gov/public/index.cfm?FuseAction=Files.View&FileStore_id=512757b1-e595-4b85-8321-30d91e368849.

PATH Act

The PATH Act proposes to wind down the GSEs over several years. 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 mortgage insurance programs, such as 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.

As part of its wind down of the GSEs, the PATH Act would repeal the GSEs' affordable housing goals, its contributions to the affordable housing funds, and the statutory authorization for the Housing Trust Fund. The newly created National Mortgage Market Utility would not have a mandate to support affordable housing. Rather, support for affordable rental housing would be provided through existing housing programs, such as those administered by HUD, and support for affordable homeownership would be provided through FHA.

Under the PATH Act, a reformed FHA would continue to support low- and moderate-income and first-time homebuyers, and would be the primary federal source of such support. The bill would enumerate a number of purposes for a newly independent FHA, including some that are related to serving underserved markets. Among other things, FHA's purposes would be to "supplement private sector activity by serving hard-to-serve markets, developing new mortgage products, and filling gaps in the provision and delivery of mortgage credit," and to "engage in research, development, and testing of new products designed to make single-family and multifamily housing and residential health care facility credit available to hard-to-serve markets."[38]

The bill would also require FHA to establish affordability requirements for FHA-insured multifamily mortgages to ensure that FHA multifamily insurance "contributes to the financing of affordable housing for low- and moderate-income families."[39]

Johnson-Crapo GSE Reform Proposal

The Johnson-Crapo GSE Reform Proposal would wind down Fannie Mae and Freddie Mac and would replace FHFA with a new agency, the 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. The proposal also contains multiple provisions, some of which are described below, related to affordable housing.

[38] Section 212.

[39] Section 237.

Housing Funds. The Johnson-Crapo GSE Reform Proposal would repeal Fannie Mae's and Freddie Mac's affordable housing goals.[40] The goals would be replaced with an annual fee on the MBS that would be directed to three different funds.[41] The fee, which would on average be 10 basis points of the total outstanding principal balance of guaranteed MBS (compared with 4.2 basis points under current law), 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 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.[42] The Housing Trust Fund would be modified to provide for a set-aside of funds to be awarded competitively to tribes to use for affordable housing activities that are eligible uses of funds under the Native American Housing Assistance and Self-Determination Act (NAHASDA).[43] The Housing Trust Fund would also be amended to increase the minimum amount that would be allocated to each state.

The Capital Magnet Fund would be modified to make clear that the housing needs of tribes would also be considered.[44] The new Market Access Fund would provide funds to support research and development or credit support for affordable homeownership and rental housing activities that largely benefit low- and moderate-income households (including very low- and extremely low-income households) and underserved or hard-to-serve populations.[45] Specifically, grants from the Market Access Fund could be used for

- grants and loans for research, development, and testing of mortgage innovations or consumer education.
- credit support for eligible mortgages or mortgage-backed securities, such as providing a portion of the capital necessary to obtain FMIC insurance. Credit support could not replace borrower funds required to be contributed to the mortgage.
- grants, loans, and pilot programs for research and development of affordable rental and homeownership programs, including manufactured housing, as long as these funds are only used to benefit households at or below 120% of area median income.
- limited credit enhancement or other credit support for products and services that will increase the rate of sustainable homeownership and affordable rental housing (including manufactured housing) for households at or below 120% of area

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[40] Section 408.

[41] Title V.

[42] Section 501.

[43] Section 502. In general, NAHASDA funds can be used for affordable housing activities that benefit low-income tribal members. For more information, see CRS Report R43307, *The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA): Background and Funding*, by (name redacted).

[44] Section 503.

[45] Section 504.

median income that might not otherwise be supported by a pilot program large enough to determine whether such a product is viable in the private market.

- housing counseling by HUD-approved housing counseling agencies.
- incentives to achieve broader mortgage credit access, such as by further reducing the incentive-based fees charged to participants that are active in underserved areas.

The chairperson of the FMIC would be required to report to Congress each year on the performance and outcomes of activities funded through the Market Access Fund. Consistent with current law, funds from the affordable housing funds could not be used for certain prohibited purposes, including political activities, advocacy, and lobbying. The bill would add criminal and civil penalties on entities that used funds for activities that are prohibited by the statute.

FMIC Purposes and Duties. FMIC would have as one of its listed purposes to "facilitate the broad availability of mortgage credit and secondary mortgage market financing through fluctuations in the business cycle for eligible single-family and multifamily lending across all—(A) regions; (B) localities; (C) institutions; (D) property types, including serving renters; and (E) eligible borrowers."[46] FMIC would also have as one of its principal duties to ensure that entities that it approves to participate in the system "maintain the capacity" to facilitate the broad availability of mortgage credit as described above.[47]

Office of Consumer and Market Access. The Office of Consumer and Market Access (OCMA)[48] would be established within FMIC. OCMA would administer the Market Access Fund. It would also monitor housing finance markets and coordinate with federal agencies regarding affordable housing. OCMA would write an annual report that assessed how well the government-guaranteed portion of the market was supporting borrowers, especially borrowers in underserved markets, and provided recommendations for actions to address deficiencies in credit availability. OCMA would also perform a biennial study on incentives to encourage lenders to address underserved markets and communities. It would also consult with the Federal Home Loan Banks and other entities that support small lenders on ways to address housing needs of underserved markets and communities.

Underserved Market Segments. The FMIC would identify not more than eight segments of the mortgage market (called underserved market segments) in which lenders and eligible borrowers have been determined to lack equitable access to the FMIC-guaranteed market.[49] The list of underserved market segments may include traditionally underserved areas, including rural and urban areas, manufactured housing, small balance loans, low- and moderate-income creditworthy borrowers, preservation of existing housing stock created by state or federal laws, and affordable rental housing. FMIC would require each approved guarantor and aggregator participating in the FMIC-guaranteed system to submit an annual report on the actions it has taken to provide credit to the underserved market segments. FMIC, however, "shall not interfere with the exercise of

[46] Section 201.

[47] Section 301.

[48] Section 208.

[49] Section 210.

business judgment of an approved aggregator or approved guarantor in determining which specific mortgage loans to include" in the MBS guaranteed by FMIC.[50]

Multifamily. The multifamily system created by the Johnson-Crapo GSE Reform Proposal would have affordability requirements intended to increase the supply of affordable rental housing.[51] Each approved guarantor would ensure that at least 60% of the rental housing units in the mortgage loans that collateralize the FMIC-guaranteed multifamily MBS would be affordable to low-income families at the time the mortgages were originated. The FMIC may suspend or adjust the 60% level during a period of unusual and exigent market conditions, during adverse market conditions, or pursuant to a request made by an approved guarantor.

Comparison to the GSEs' Three Channels. The proposal would repeal the GSEs' *affordable housing goals* with the only remaining numerical target being the affordability requirement for multifamily. The 60% target is similar to the affordability levels currently provided for multifamily by the GSEs.[52]

The proposal does not have the same *duty to serve* requirement to "provide leadership to the market... for very low-, low-, and moderate-income families" in specific underserved markets. But the FMIC does have as one of its listed purposes and principal duties to "facilitate the broad availability of mortgage credit." The FMIC would also identify underserved market segments, which could be a broader group of segments than in the GSEs' duty to serve requirement, and would require certain approved entities to submit an annual report on the actions it has taken to provide credit to the underserved market segments.

The proposal would keep in a modified form the *Housing Trust Fund* and *Capital Market Fund*, establish the Market Access Fund, and increase the contributions to the funds to an average of 10 basis points (from 4.2 basis points under current law). The funding would come from incentive based fees rather than the flat fee charged to the GSEs. Although the average fee would be higher under the Johnson-Crapo reform proposal than under current law, the total amount of money allocated to the affordable housing funds would depend on the dollar volume of mortgages that would be guaranteed by the FMIC.

HOME Forward Act

The HOME Forward Act would wind down Fannie Mae and Freddie Mac and would replace FHFA with a new agency, the National Mortgage Finance Administration (NMFA). The NMFA would be an independent agency charged with providing access to affordable mortgage credit and protecting taxpayers from absorbing losses. The NMFA would provide reinsurance and an explicit government guarantee on MBS issued by a new entity, the Mortgage Securities Cooperative (MSC), using a common securitization platform. The NMFA would only pay out on its guarantee after a significant amount of private capital absorbed the first losses, including the capital held by the MSC. In addition, the NMFA would regulate aspects of the mortgage market related to its guaranteed MBS and would establish a new multifamily housing finance system as well. The

[50] Section 210.

[51] Section 704.

[52] For example, see Fannie Mae, *An Overview of Fannie Mae's Multifamily Mortgage Business*, May 1, 2012, at https://www.fanniemae.com/content/fact_sheet/multifamilyoverview.pdf.

proposal also contains multiple provisions, some of which are described below, related to affordable housing.

Housing Funds. The HOME Forward Act would repeal Fannie Mae's and Freddie Mac's affordable housing goals.[53] The goals would be replaced with an annual fee on the MBS that would be directed to three different funds.[54] The fee would be 10 basis points for each dollar of outstanding mortgages collateralizing securities issued by the common securitization platform. The NMFA would allocate 75% of the collected fees to the Housing Trust Fund, 15% to the Capital Magnet Fund, and 10% to a newly established Market Access Fund.[55] The Housing Trust Fund would be modified to ensure that a certain amount of funds would be allocated to rural areas.[56] It would also be modified to specify that no more than 5% of the funds allocated to the Housing Trust Fund could be used for homeownership activities, compared with 10% under current law. The Capital Magnet Fund would be unchanged.[57] The Market Access Fund is intended to promote innovation in housing finance and affordability by

- providing grants and loans, including through pilot programs, to support the research and development of sustainable homeownership and affordable rental programs so long as the funds are for the benefit of families with incomes at or below 120% of AMI.
- providing limited credit enhancement and other credit support for products and services that could increase homeownership and affordable rental housing for families with incomes at or below 120% of AMI and might not otherwise be available on a sufficient scale to determine their viability.
- providing grants and loans to redevelop abandoned and foreclosed properties in areas of greatest need.[58]

Consistent with current law, funds from the Housing Trust Fund and the Capital Magnet Fund could not be used for certain prohibited purposes, including political activities, advocacy, and lobbying. The bill would add criminal and civil penalties on entities that used funds for activities that are prohibited by the statute.[59]

Purposes and Responsibilities. The NMFA would have one of its purposes and its responsibilities be to provide access to affordable mortgage credit.[60] The MSC would also have a responsibility and duty to "facilitate a robust secondary market for eligible mortgages across the spectrum of creditworthy borrowers, including borrowers in underserved rural and urban markets."[61] The NMFA would establish guidelines or rules for evaluating the MSC's compliance with its responsibility. If the MSC refuses to comply, the NMFA may enforce compliance and issue a cease-and-desist order and impose civil money penalties.

[53] Section 506.

[54] Title IV.

[55] Section 401.

[56] Section 402.

[57] Section 403.

[58] Section 404.

[59] Section 405.

[60] Sections 101 and 201.

[61] Section 215.

Multifamily. As part of the multifamily system established by the MSC, there would be the expectation that "to the maximum extent practicable, at least 60 percent of the total dwelling units financed by mortgages purchased by the Multifamily Platform must be affordable to households earning not in excess of 80 percent of area median income."[62]

Comparison to the GSEs' Three Channels. The proposal would repeal the GSEs' *affordable housing goals* with the only remaining numerical target being the affordability requirement for multifamily. The 60% target is similar to the affordability levels currently provided for multifamily by the GSEs.[63]

The proposal does not have the same *duty to serve* requirement to "provide leadership to the market... for very low-, low-, and moderate-income families" in specific underserved markets. But the NMFA would have one of its purposes and its responsibilities be to provide access to affordable mortgage credit.[64] The MSC would also have a responsibility and duty to "facilitate a robust secondary market for eligible mortgages across the spectrum of creditworthy borrowers, including borrowers in underserved rural and urban markets."[65]

The act would keep in a modified form the *Housing Trust Fund* and *Capital Market Fund*, establish the Market Access Fund, and the contributions to the funds to 10 basis points (from 4.2 basis points under current law). Although the fee would be higher under the HOME Forward reform proposal than under current law, the total amount of money allocated to the affordable housing funds would depend on the dollar volume of mortgages that would be securitized through the system.

Comparison of Affordable Housing Funds in the Johnson-Crapo and HOME Forward Proposals

The affordable housing fund provisions included in the Johnson-Crapo proposal and the HOME Forward proposal are broadly similar in both proposals, although there are some differences in the details. Both the Johnson-Crapo and HOME Forward proposals would increase the average fee charged to fund the affordable housing funds, to 10 basis points from 4.2 basis points. The HOME Forward Act would charge a flat fee of 10 basis points, while the Johnson-Crapo proposal would charge an incentive-based fee that would average 10 basis points but would differ for different entities according to the amount of business they did in underserved market segments.

Both proposals would allocate the same share of funding to each of the affordable housing funds. Both increase the share of funding allocated to the Housing Trust Fund (to 75% of contributions, compared with 65% under current law), decrease the share of funding allocated to the Capital Magnet Fund (to 15% from 35% under current law), and direct 10% of contributions to a new Market Access Fund. **Figure 1** and **Figure 2** show the allocations of funds under current law and the allocations of funds under these two proposals, respectively.

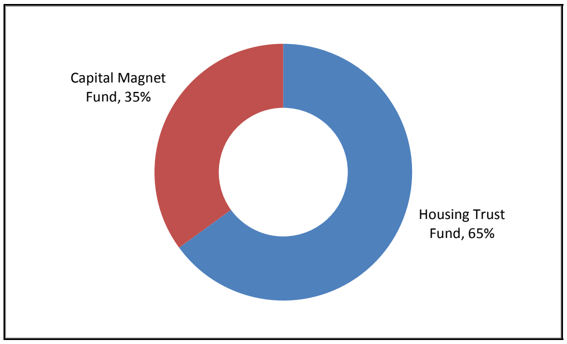
[62] Section 604.

[63] For example, see Fannie Mae, *An Overview of Fannie Mae's Multifamily Mortgage Business*, May 1, 2012, at https://www.fanniemae.com/content/fact_sheet/multifamilyoverview.pdf.

[64] Sections 101 and 201.

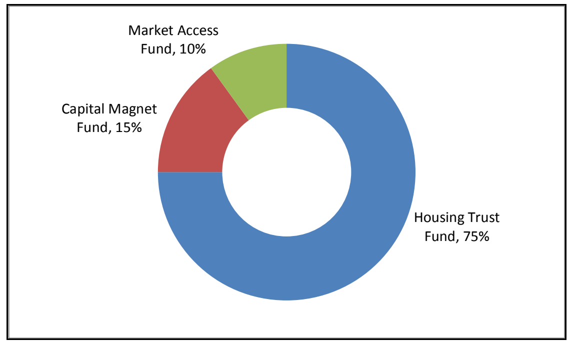
[65] Section 215.

Figure 1. Affordable Housing Fund Allocations Under Current Law



Source: Figure created by CRS based on P.L. 110-289.

Figure 2. Allocations Under Johnson-Crapo and HOME Forward Proposals



Source: Figure created by CRS based on Johnson-Crapo and HOME Forward discussion drafts.

Note: The proposals would make some changes to the parameters of the existing funds.

The Johnson-Crapo proposal includes provisions to provide access to funds for tribes (through a set-aside of funds to be distributed competitively to tribes under the Housing Trust Fund, and language providing that tribal areas be considered in awarding funds under the Capital Magnet Fund), while the HOME Forward proposal includes provisions insuring that rural areas receive a certain amount of funds under the Housing Trust Fund.

Both proposals would establish a new Market Access Fund, with a broadly similar purpose, although there are some differences in the specific eligible activities in each proposal. For example, the HOME Forward proposal would allow funds from the Market Access Fund to be used to redevelop abandoned and foreclosed properties, while the Johnson-Crapo proposal would allow funds from the Market Access Fund to be used for housing counseling and to provide incentives to market participants to serve underserved areas. Under both proposals, certain eligible activities under the Market Access Fund would be required to benefit households with incomes no higher than 120% of AMI.

Table 3 compares the major features of the Housing Trust Fund and the Capital Magnet Fund under current law and these proposals with the proposed Market Access Fund.

Table 3. Comparison of Housing Trust Fund and Capital Magnet Fund Under Current Law and the Market Access Fund as Proposed by the Johnson-Crapo and HOME Forward Proposals

	Housing Trust Fund	Capital Magnet Fund	Market Access Fund
Administering Agency	Department of Housing and Urban Development (HUD).	The Community Development Financial Institutions (CDFI) Fund in the Department of the Treasury	The FMIC (Johnson-Crapo) or the NMFA (HOME Forward).
Allocation Method	Provides formula funding to states, which then award funds to developers or other affordable housing entities.	Provides competitive funding to affordable housing organizations.	The MAF would provide grants, loans, credit enhancement, or other types of support for rental and homeownership housing. The specific allocation method is not specified in either proposal.
Focus on Rental or Homeownership	80% of funds must be used for rental housing. Up to 10% of funds can be used for homeownership activities, and up to 10% for administrative expenses. (The HOME Forward proposal would change the allowable amount that can be used for homeownership activities to 5%.)	Funds can be used for rental or homeownership housing, with no specific amount required to be spent on one or the other.	Funds can be used for rental or homeownership housing, with no specific amount required to be spent on one or the other.
Income Targeting	All funds must benefit very low- or extremely low-income households. 75% of the funds spent on rental housing activities must benefit extremely low-income households.	By statute, funds must "primarily" be used to benefit households that are low-, very low-, or extremely low-income. An interim rule published by Treasury requires that awardees using funds for affordable housing activities must ensure that more than 50% of eligible project costs (that is, costs funded through the Capital Magnet Fund or related leveraged funds) are used for housing that is affordable to these income groups, and that all eligible project costs are used for housing that is affordable to households with incomes no higher than 120% of AMI.	Funds for certain activities must benefit households with incomes at or below 120% of AMI.

	Housing Trust Fund	Capital Magnet Fund	Market Access Fund
Eligible Activities	Funds can be used for the production, preservation, or rehabilitation of affordable rental housing. Funds can also be used for the production, preservation, or rehabilitation of affordable homeownership housing, including down payment or closing cost assistance or interest rate buy-downs.	In general, funds can be used to support financing related to the preservation, rehabilitation, or purchase of affordable housing, or for economic development or community service facilities that are part of a community revitalization strategy that includes affordable housing. Preference is given to projects that will cost at least 10 times the grant amount. Specific eligible activities include providing loan loss reserves; capitalizing revolving loan funds, affordable housing funds, or funds that support economic development activities or community service facilities; providing risk-sharing loans; and providing loan guarantees.	Both proposals would allow funds to be used for grants and loans to support research and development into homeownership and rental programs, and credit enhancement or other credit support for products or services that could increase the rate of affordable homeownership or rental housing but that otherwise might not be available on a wide enough basis to test their viability. The Johnson-Crapo proposal would allow funds to be used for grants and loans for research, development, and testing of mortgage innovations or consumer education; credit support for eligible mortgages or mortgage-backed securities; housing counseling through HUD-approved agencies; or incentives to achieve broader mortgage credit access. The HOME Forward Act proposal would allow funds to be used to provide grants and loans to redevelop foreclosed and abandoned properties in certain areas.

Source: Table created by CRS based on current law and the Johnson-Crapo and HOME Forward discussion drafts.

Note: The details of the Market Access Fund as proposed by the Johnson-Crapo and HOME Forward proposals differ, including differences in the full range of eligible activities. However, the broad parameters of the proposed fund that are described in the table are the same under the two proposals, except for the differences noted. Similarly, the Johnson-Crapo and HOME Forward proposals would make some changes to the parameters of the Housing Trust Fund and the Capital Magnet Fund compared to current law, but the key features of these funds that are shown in the table would remain the same except where noted.

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