March 12, 2014

Please contact the authors below if you have questions regarding this alert.

Author:

Andrew Olmem
aolmem@Venable.com
202.344.4717

Megan Malone
mmalone@Venable.com
202.344.4621

Senate Banking Committee Leaders Reach Agreement on Housing Finance Reform

Yesterday, Senate Banking Committee Chairman Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID) announced that they have reached a broad agreement to overhaul the housing finance market and wind down Fannie Mae and Freddie Mac.

Chairman Johnson and Ranking Member Crapo indicated that they plan to release draft legislative text soon and to have the Senate Banking Committee markup the bill within the next few weeks. Under the Johnson-Crapo Agreement, the new legislation will be based on the Corker-Warner bill (S.1217) that was introduced last June. Additional aspects of the Johnson-Crapo Agreement are set forth below.

Yesterday evening, House Financial Service Committee Chairman Jeb Hensarling (R-TX) issued a press release commending Chairman Johnson and Senator Crapo for producing a reform plan. In the release, he noted that the Johnson-Crapo Agreement includes several provisions contained in the PATH Act (H.R. 2767) – a common securitization platform utility and preservation of secondary market access for small lenders. However, Chairman Hensarling also stated that he remains skeptical of any housing finance reform that does not remove the government guarantee for the secondary mortgage market or include FHA reform.

Key Aspects of the Johnson-Crapo Agreement

- Fannie Mae and Freddie Mac will be wound down and eliminated within five years (with the possibility of extensions) and will be replaced with a new government insurer, the Federal Mortgage Insurance Corporation (FMIC).
- The FMIC will guarantee certain mortgage-backed securities, but private capital will take the first 10% of losses.
- The FMIC will oversee an insurance fund to cover its guarantee obligations.
- The current conforming loan limits will be maintained.
- The FMIC will be modeled on the Federal Deposit Insurance Corporation and a five-member, bipartisan board of directors.
- The transition to the new system will be promoted through specific benchmarks and timelines to guide the FMIC and market participants.
- The current affordable housing goals will be eliminated, while housing-related funds will be provided using a FMIC user fee (10 basis points) to ensure affordable housing is made available.
- A common securitized platform (CSP) will be created and will be owned and operated by its members. The CSP will "issue a single, standardized FMIC-wrapped security, and permit private label securities to be issued in a manner that encourages standardization and improved market liquidity."
- A mutual cooperative, jointly owned by small lenders, will be created to ensure that institutions of all sizes have direct access to the secondary market. This small-lender mutual cooperative will provide a cash window for individual eligible loans and small lenders could retain servicing rights.
- There will be a mandate for strong underwriting standards that are based on the Consumer Financial Protection Bureau's qualified mortgage (QM) standards, but which require a 5% down payment requirement, except for first-time homebuyers, in which case a 3.5% down payment will be required.
- Multifamily housing will be addressed by building on its risk-sharing mechanisms.
- The Agreement aims to maintain broad liquidity in the "to-be-announced" market.