

Client Alert

April 28, 2014



Housing Finance Reform

Efforts to address housing finance reform are starting to heat up, although the finish line is still probably a long way off. Fannie Mae and Freddie Mac remain in conservatorship, even though they are making money, and the Federal Reserve is a major buyer of residential mortgage backed securities. Neither of these conditions is likely to be sustained in the long run. We believe that some sort of GSE housing finance market reform is inevitable and that it will likely involve several core elements, although there could be significant differences in the details.

First, we believe that some form of federally guaranteed housing funding instrument, like a federally guaranteed mortgage backed security, is likely. Such a guarantee would attract funding to the housing market, keep mortgage rates low relative to other market rates and provide some distance between the housing market, which has shown significant volatility over the years, and the banking system. Another “implicit” guarantee seems unlikely given the history of the GSEs in the most recent financial crisis. While some would prefer that housing funding be wholly private, the long history of supporting single family housing in the U.S. suggests that the guarantee route is likely.

Second, private capital almost certainly will wind up standing in front of any such guarantee. There are a variety of mechanisms by which this can be accomplished, but we suspect that there is no appetite for a guarantee system that does not put mortgage originators and other private sector entities in the funding chain at risk and use them as a buffer to protect any federal guarantee. Indeed, a guarantee fund that is limited to private contributions, modeled on the original Federal Deposit Insurance Fund, is a possibility.

Third, we believe that it is likely that a funding vehicle, such as a common securitization platform that can be federally overseen and regulated, is likely to be included in any final legislation.

Fourth, we believe that there will be a low and moderate income housing component that can be touted as providing a tangible benefit to consumers. This could take many forms ranging from studies to subsidies or grants and almost anything in between.

Finally, we believe that any final legislation will address the status of the current GSEs. Although the simplest approach might be to adjust their current structure to address the issues outlined above, their current portfolios may well be unwound. A process for resolving existing claims may or may not be included.

We will be following this legislation as it winds its way through the Congress. An initial comparison of single-family provisions in the bills currently being discussed is attached.

**SINGLE-FAMILY HOUSING
FINANCE REFORM**

113TH CONGRESS GSE REFORM LEGISLATION¹

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
Wind down/phase out of Fannie Mae and Freddie Mac	§501: Fannie Mae and Freddie Mac charters repealed upon FMIC certification date; upon GSE charters repeal, full faith and credit of U.S. backs MBS guarantees and other debt obligations; dividend payments on senior preferred stock agreement (as amended) preserved §502: FHFA responsible for winding down GSEs; no new business after FMIC certification date	§101: FMIC to dissolve and eliminate Fannie Mae and Freddie Mac on the agency transfer date (6 months after enactment) §402: FHFA-to-FMIC transition and transfer; transfer of powers and duties on system transfer date (§406) §604: as of system transfer date, Fannie Mae and Freddie Mac not to engage in new business; full faith of U.S. for legacy MBS and legacy debts; dividend payments on senior preferred stock agreement (as amended) preserved	§103(a): Director of FHFA required to terminate conservatorship in 5 years (subject to extensions based on reports and data) and appoint FHFA as receiver §§109, 110: FHFA as receiver may establish receivership entity and has power to conduct receivership business as deemed appropriate; full faith and credit of U.S. for payment of Fannie Mae, Freddie Mac obligations	§501: no new business for Fannie Mae and Freddie Mac after 5 years subsequent to enactment; wind down to be completed within 1 year after that; U.S. government to back all obligations of Fannie Mae and Freddie Mac
Methods of wind down/phase out of Fannie Mae and Freddie Mac	§502: FHFA empowered to create holding corporation, trusts, etc., as necessary to wind down Fannie Mae and Freddie Mac	§404: Transition Committee (chaired by FHFA Director) to develop Transition Plan from GSEs to FMIC; at system transfer date, FHFA's functions, powers and duties	§104(a): neither Fannie Mae nor Freddie Mac shall have portfolio of "mortgage assets" > \$550B at end of year of enactment, then reduced 15% per year for 5 years to no less	§502: wind down of Fannie Mae and Freddie Mac to commence on date of enactment §505: graduated reduction in GSE portfolio, starting with maximum

¹ This summary chart is for general information purposes only. Review of these abbreviated descriptions of complex legislative provisions should not be a substitute for study of the entire legislative text.

² Provisions unique to PATH Act (other than FHA reform) not covered. These include mandatory delay of Basel III implementation, covered bonds, prohibition on eminent domain, and elimination of HECMs (FHA insured reverse mortgages).

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	§503: FHFA to align its purpose and activities during transition period to FMIC §505: portfolio reductions, neither Fannie Mae nor Freddie Mac shall have portfolios of \$552.5B at end of year of enactment, then reduced 15%/year until FMIC certification date	transferred to FMIC, but FHFA (as independent office within FMIC) remains responsible for GSEs in conservatorship and FHLBs §605: portfolio reductions, at 15% per year beginning at end of year of enactment; FMIC to establish allowable minimum amount of loan assets necessary to facilitate orderly wind down and appropriate loss mitigation on legacy guarantees	than \$250B §103(a): mandatory receivership in 5 years (subject to extension)	of \$552.5MM at 12/31/14, then reduced 15%/year; may end with retained portfolio to facilitate orderly wind down
Identity and composition of regulator	§§101, 102: Federal Mortgage Insurance Corp. (FMIC) established, headed by Director appointed by President and approved by U.S. Senate (5-year term) §103: FMIC Board of Directors, including 5 voting members plus FHFA Director <i>ex officio</i> §104: FMIC Office of Inspector General created §107: FMIC initially funded by assessments on Fannie Mae and Freddie Mac §§303, 304: effective when FMIC certified, FHFA	§201: Federal Mortgage Insurance Corp. (FMIC) established; each approved entity (§310 <i>et seq.</i>) subject to the supervision and regulation of FMIC, an independent agency and instrumentality of U.S. §202: FMIC Board of Directors, headed by Chairperson appointed to 5-year term; Chairperson acts as lead executive of FMIC §204: FMIC Office of Inspector General created §608: FMIC initially funded by assessments on Fannie Mae and Freddie Mac	§§103, 251, 311: FHFA retained as primary regulator §§211 and 212: FHA established as independent, self-sufficient government corporation, to provide mortgage insurance and credit insurance for (i) single-family homeownership financing for first-time homebuyers, low-moderate income home-buyers and homeowners in Disaster Areas or areas subject to counter-cyclical markets; (ii) financing of affordable rental housing and (iii) provision of residential health care facilities §214: independent 5 member FHA Board of Directors, chaired by Secretary of HUD	§§101, 102: National Mortgage Finance Agency (NMFA) established as federal agency, headed by Director with 5-year term §107: NMFA initially funded by assessments of Fannie Mae and Freddie Mac §104: Office of Inspector General created

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	abolished and power, authority and operations of FHFA transferred to FMIC	§207: specific offices within FMIC include Office of Underwriting, Office of Securitization and Office of FHLB Supervision, as well as Office of Consumer and Market Access (§208) §208: Office of Consumer and Market Access to administer Market Access Fund (per §504), monitor the markets and coordinate with other federal agencies		
Power and authority of regulator	§201: enumerated duties of FMIC include developing credit risk-sharing mechanisms, products and structures for private market first loss protection of covered securities, providing insurance on covered securities above the first-loss protection, facilitating securitization of eligible mortgages from credit unions and community banks, developing and publishing standard forms and agreements and overseeing the common securitization platform being developed by FHFA §202: FMIC to develop	§301: enumerated duties of FMIC include facilitating fair access to secondary mortgage market for small mortgage lenders originating eligible loans and monitoring safety and soundness of regulated and approved entities §302: FMIC to develop and adopt credit risk-sharing mechanisms (see below) §303: insurance fees insure payments of P&I on covered securities (after first loss) §315: FMIC directed to create “Small Lender Mutual” to address	§103: FHFA as receiver of Fannie Mae and Freddie Mac §231: HUD’s authority over FHA eliminated, after transition period §213: grant of general powers to FHA as independent government corporation §251: FHFA established as safety and soundness regulatory for FHA §311, §315: FHFA to charter and regulate National Mortgage Market Utility; FHFA as primary regulator over the Utility	§201: enumerated duties of NMFA include developing standards for risk-sharing mechanisms, products and structures, providing insurance on covered securities, overseeing and supervising common securitization platform, ensuring that credit unions and community and mid-size banks have equal access to common securitization platform §§233, 234, 235: NMFA to develop, establish and maintain uniform securitization documents, uniform mortgage database and electronic registry system for mortgages §215: Issuer, subject to NMFA oversight, must facilitate robust

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	standard forms of credit risk-sharing mechanisms (see below) §204: insurance fees insure payments of P&I on covered securities (after first-loss) §233: FMIC to develop and publish standard uniform securitization documents, with uniform representations and warranties framework §224: FMIC to establish, operate and maintain national mortgage database, building upon existing GSE/FHFA Uniform Mortgage Data Program §225: FMIC to establish and operate electronic registry for eligible mortgages	securitization needs of small mortgage lenders to purchase single eligible loans (cash window) or multi-lender pools; eligibility to participate as member in Small Lender Mutual limited to insured non-depository mortgage originators with minimum net worth of \$2.5MM and annual eligible loan production of less than \$100B. In addition: • FMIC may establish other small lender mutuals, with eligible participants limited to depositories with assets < \$500B and non-depositories with minimum net worth of \$2.5MM, eligible annual loan production of < \$100B, which have previous Fannie Mae or Freddie Mac approval; small lender mutuals permitted to seek approval for eligible aggregator status • each small lender mutual must operate cash window (purchase of individual loans) and		secondary market across entire spectrum of creditworthy borrowers §301: all FHFA power and authority over FHLBs transferred to NMFA

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
		be subject to FMIC supervision and regulation §326: FMIC (Platform Directors) to develop uniform securitization documents for platform securities §333: FMIC, with CFPB, to develop, build and maintain National Mortgage Database (transitioning from FHFA's involvement)		
Oversight of market participants	FMIC to set standards and grant approvals to: • §211: private mortgage insurers that will provide PMI on eligible mortgages • §212: mortgage servicers that will administer eligible mortgages (including loss mitigation programs and prevention) • §213: issuers of covered securities, including financial condition and adequacy of capital (capacity to	FMIC to set standards and grant approvals to: • §311: guarantors of payments on securities (bond insurers) • §312: mortgage aggregators (delivery of eligible single-family mortgage loans to Securitization Platform) • §313: private mortgage insurers that will provide PMI on eligible mortgages • §314: mortgage servicers (existing Fannie Mae/Freddie		NMFA to set standards and grant approvals to: • §221: private mortgage insurers • §222: mortgage services (with additional required consumer protections) • §223: bond guarantors (credit risk takers for covered securities)

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	absorb first loss), with market share limited to 15% of “total market”; FHLB System may be approved issuer (but not as joint and several obligations) • §214: bond guarantors, including financial condition and minimum capital level of 10% • §217: FMIC empowered to suspend or revoke approved status or level CMPs against approved parties for violation of standards, requirements and rules	Mac approved servicers “grandfathered”) • §315: FMIC may grant cash window authority to approved guarantors and approved aggregators FMIC empowered to suspend or revoke approved status of approved parties		
Securitization platform	§215: FMIC to establish FMIC Mutual Securitization Company (the “Company”) to securitize loans and meet issuing needs of credit unions, community and mid-size banks and non-depository mortgage originators and to purchase and securitize single loans (cash window); members of the Company include insured depository institutions with < \$15MM	§321: FMIC to establish securitization platform (“Platform”) owned by members as a non-profit cooperative or cooperative entity, regulated by FMIC (but not an agency or instrumentality of the U.S.) §323: membership in the Platform may include mortgage aggregators, mortgage originators, mortgage guarantors,	§311: FHFA to establish and charter open-access National Mortgage Market Utility (“Utility”) no later than 2 years after enactment, as currently being developed by Fannie Mae and Freddie Mac, to be operated as a non-profit, non-government agency entity; discrimination against eligible loan originators, aggregators and or qualified issuers prohibited §312: Utility authorized to (i)	§211: Mortgage Securities Cooperative (“Cooperative”) created, to serve as sole issuer for covered securities; Cooperative to use common securitization platform developed by Fannie Mae and Freddie Mac §212: NMFA to develop, adopt and publish standards for Cooperative, including financial and risk-based standards and capacities

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	in assets or non-depository mortgage originators having minimum net worth of \$2.5MM; Company governed by a Mutual Board, with power to approve member participants; Company is an approved issuer §216: for oversight of market participants, FMIC permitted to adopt standards or requirements to ensure competition among market participants §232: FMIC, through Office of Securitization, to oversee and supervise the common securitization platform, including a system capable of issuance of multi-lender securities; requirement of coordination with Federal Home Loan Bank System, to establish securitization platform meeting needs of members	Federal Home Loan Banks, small lender mutuals and others as determined by Platform Directors §325: FMIC to issue standardized securities through the Platform, develop and adopt standardized securitization and servicing documents for covered securities issued through the Platform and for non-covered securities, purchase or receive eligible mortgage loans, pools of eligible mortgage loans and securities and issue covered securities §315(g): each member of the Small Loan Mutual is member of Securitization Platform §325: in addition to eligible loans and eligible securities, Platform to be utilized for “standard non-covered securities” per FMIC guidelines and to purchase mortgage loans and securities not collateralized by eligible mortgage loans	develop standards related to servicing, pooling and securitizing residential mortgage loans, (ii) operate and maintain the platform, and (iii) establish a depository for registration and use of mortgage-related documents; Utility not authorized to own, originate, service, insure or guarantee any residential mortgage or RMBS	§242: NMFA Office of Securitization to oversee and supervise common securitization platform and to ensure credit unions and community and mid-size banks have access, including multi-lender pools
Types and characteristics of	§2(g): FMIC “covered security” defined as MBS	§2(65): FMIC “single-family covered security” defined as	§321: “qualified security” defined as collateralized by class of	Cooperative is Issuer of securities (see above)

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
securities	collateralized by eligible mortgages, issued pursuant to standard credit risk clearing mechanism and agreement and eligible for FMIC insurance first cleared by approved issuer §207: FMIC covered securities exempt from SEC registration as securities guaranteed by U.S. government and from QRM risk sharing under Dodd-Frank Act	MBS collateralized by eligible single family mortgage loans insured by FMIC §307: FMIC insured securities exempt from SEC registration as securities guaranteed by U.S. government and from QRM risk sharing under Dodd-Frank Act	residential mortgages, issued in accordance with standard form securitization agreements, by a “qualified issuer,” through the Utility, and not guaranteed or insured by the U.S. government §322: Utility must develop and adopt credit risk classifications of residential mortgage loans (including credit enhancement such as mortgage insurance), as well as standard forms of mortgage documents and disclosures, PSAs, warranty and indemnity provisions and trustee duties §322: Utility to develop and adopt standards for servicers, aggregators and qualified issuers, trustees, as well as data and disclosure standards	
Safety and soundness/prudential standards		§311: FMIC to set prudential standards that require approved guarantors to hold 10% capital and adequate solvency §312: FMIC to set prudential standards for approved aggregators to ensure safety and soundness (risk to MIF); FMIC given supervision authority over approved aggregators and	§256: FHFA to examine and evaluate safety and soundness of FHA; FHFA must submit “annual credit subsidy cost estimate” to OMB (for President’s budget) §§256, 257: FHA must maintain capital reserve ratio in MMIF of at least 4% for new business; capital classification standards and performance metrics for MMIF	§213: NMFA to establish capital standards of Cooperative (Issuer)

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
		must establish capital standards for non-depository approved aggregators; resolution standards for depositories and non-depositories (similar to FDIC) §313: FMIC has back-up examination authority over private mortgage insurers if state insurance regulator has not acted in 2-year period and back-up resolution authority §316: FMIC to establish regulation for capital consistent with classifications and levels of capital to be maintained by covered entities (per §309)		
Risk sharing	§202: FMIC to develop standard risk-sharing mechanisms, products, structures and agreements requiring first loss protection from private holders of securities; products, structures and agreements (requiring first loss position of private holders of covered securities) adequate to cover losses based on home price declines during “moderate	§302: FMIC to develop standards for risk sharing mechanisms for first loss protection, providing for first loss protection of private market holders of single-family covered securities of 10% (time of issuance) §302(c): FMIC to pay in cash when due timely payment of P&I on insured, covered securities, after	§106: FHFA must require Fannie Mae and Freddie Mac to develop and implement risk sharing program, of at least 10% of annual production, whereby private market participants share or assume credit risk of mortgage securities, which may include MI, credit-linked notes and securities, subordination and other structures and transactions deemed appropriate by FHFA Director §233: FHA risk-sharing pilot	§202: within 5 years of enactment, NMFA to adopt rules from credit risk-sharing mechanisms, products and structures, including risk-linked notes (private investors) and capital requirements to cover residual risks, designed to cover with private capital first-loss credit risk §205: NMFA insurance payments backed by full faith and credit of U.S.

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	and severe recessions” of last 100 years and not less than 10% of principal or face value of covered security, to be completed within 5 years of date of enactment §204: FMIC will insure P&I on covered securities, back-stopped by U.S. government guarantee of all insurance payouts	first-loss position exhausted or approved guarantor becomes insolvent; FMIC insurance payments backed by full faith and credit of U.S. (backstop)	program, to be established by FHA 2 years from enactment; once operative, FHA required to enter risk-share agreements on 10% of its business (cross-sectional)	
Mortgage insurance mechanism	§203: Mortgage Insurance Fund (MIF) created, with reserve ratio goals of 1.25% of covered securities issued during first 5 years and 2.50% for 6-10 years and thereafter §203(f): FMIC to charge and collect insurance fees sufficient to fund and maintain reserve ratio in MIF, based on FMIC determination of risks, reserve ratio direction and goals and uniformity among all participating institutions §204: insurance for losses of P&I on covered securities, after first loss position taken by private market; full faith and credit of U.S. back insurance payments	§302: Mortgage Insurance Fund (MIF) created, with reserve ratio goals of 1.25% of covered securities issued during first 5 years and 2.50% for 6-10 years; thereafter FMIC to endeavor to maintain at 2.5%; insurance premiums may vary depending on risks; FMIC to charge and collect fees for insurance to achieve and maintain reserve goals §303: Insurance for timely payment of P&I on covered securities, after first loss position; full faith and credit of U.S. back MIF payments §608: MIF reserve ratio may be set at 75 bps for 5 years beginning on system certification date	§234: FHA guarantee lowered to 50% of original principal obligation over 5-year burn-off period (10% annual reduction) §235: FHA must charge premiums of at least 55 bps, but in any case premiums sufficient to cover costs of doing business and of adhering to capital ratio requirement (based on GAAP), so that FHA self-sufficient	§203: Mortgage Insurance Fund (MIF) created, with reserve ratio goals of 1.25% of covered securities issued during first 7 years and 2.25% for 8-12 years and thereafter; reserves held in MIF plus capital by issuer shall be adequate to cover 100-year historical loss §204: insurance for losses of P&I covered securities subject to payment after first loss credit less risk placement or retention plus exhaustion of capital of Issuer

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	§211: FMIC to establish standards for private mortgage insurance to be provided on eligible mortgages			
Regulatory limits and requirements on lenders/servicers		§314: OCC, Fed, FDIC, CFPB and FMIC to review existing mortgage servicing rules and standards and develop and issue rules and standards for servicing eligible single-family loans, including consultation and coordination with state regulators	§§263, 264, 265: for FHA and RHS guaranteed loans, seller concessions limited to 3%; lenders must take back any early defaulted (60 days past due) in first 24 months; indemnification required if fraud or serious or material violations of FHA underwriting standards (lender knew or should have known)	§322: NMFA to establish specific detailed standards for servicing eligible mortgages
Limitations on loans and loan terms	§2(11): “eligible mortgage” defined as residential real estate loan (1-4 family) originated as “qualified mortgage” under Regulation Z, with principal amount not exceeding conforming loan limit (per §504), LTV ranging from 80-95% depending on down payment amount (minimum of 5%) and lender recourse plus sliding scale of required private mortgage insurance	§2(29): “eligible single family mortgage loan” defined as loan originated per FMIC standards that is “substantially similar” to a “qualified mortgage” under TILA, 1-4 family (including non-owner occupied and manufactured housing), at maximum approved loan amount and maximum 80% LTV (unless the seller agrees to repurchase the loan plus PMI, based on sliding scale), down payment minimums vary from as low as 3.5% (first time homebuyers) to 5%	§§261, 261: borrowers not permitted to obtain FHA-guaranteed loan within 7 years of foreclosure unless hardship demonstrated; borrowers permanently disallowed if subject to multiple foreclosures §107: Fannie Mae and Freddie Mac may only purchase, sell, service or otherwise deal in “qualified mortgages” under Dodd-Frank Act and CFPB regulations §232: eligible FHA mortgages, based on principal amount to exceeding 100% of appraised value and 115% of median home value in MSA, down payment of 5% or	§2(7): “eligible mortgage” 1-4 family real estate loan that is “qualified mortgage” under TILA, no more than conforming loan limit, LTV at least 80% (unless PMI, based on sliding scale), down payment not less than 5% (with such other terms as NMFA and CFPB may agree)

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
			3.5% (first time homebuyer)	
Modifications to loan limits	§504: single family conforming loan limit fixed at \$417,000 for single family, including exceptions for high-cost areas; to be adjusted annually based on changes in HPI	§304: single family conforming loan limit not to exceed \$417,000 for single family, with higher calculated limit for up to 4-family; increased annually based on HPI; higher loan limits in higher-cost areas	§105: single family conforming loan limit fixed at \$417,000, future drops in home price index may cause to be reduced; no increase for “high cost” areas; maximum amount scheduled to decrease over time	§504: on enactment date, single family limit at \$417,000, to be adjusted annually based on HPI (with exceptions for Alaska, Hawaii, USVI and Guam)
Provisions/requirements for credit to low-moderate income borrowers	§401: as affordable housing allocation, FMIC must collect 5-10 bps per dollar of outstanding eligible mortgages; 80% allocated to HUD for Housing Trust Fund (§402) and 20% to Treasury for Capital Magnet Fund (§403) §404: Housing Trust Fund and Capital Magnet Fund to benefit only lawful citizens and permanent residents of U.S., and not to be used for political purposes; CMPs and criminal penalties for violations	§210: FMIC to seek to support primary mortgage market, to help ensure access to credit for underserved borrowers and market §408: mandatory housing goals repealed §501: FMIC to charge and collect fees based on outstanding principal balance of all eligible mortgage loans, to be allocated and paid: • 75% to HUD Housing Trust Fund • 15% to Treasury Capital Magnet Fund • 10% to FMIC Market Access Fund (§504)		§404: Market Access Fund created, for R&D grants and limited credit enhancement and support to benefit low-moderate income borrowers, and grants and loans to HUD to redevelop abandoned and foreclosed properties in neediest areas

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
		Initial fee at 10 bps; then, average fees equal to 10 bps (range from highest to lowest > 2X), with underserved market incentive (reduction) based on performance metrics and relative extent relevant markets are underserved Additional underserved market incentive, payable from Market Access Fund, as reduction in annual fees from approved market participants §504: FMIC Market Access Fund created for underserved, by grants, additional credit support and credit enhancement		
Unusual or exigent market conditions	§205: upon agreement of FRB and Treasury (in consultation with HUD), FMIC may determine that “unusual or exigent circumstances” have created or threatened to create within mortgage market an anomalous lack of credit availability “that could materially and severely disrupt the functioning of housing finance system of the U.S.,” and temporarily (6	§305: upon agreement of FRB and Treasury (and consultation with HUD), FMIC may determine that “unusual and exigent circumstances” have created or threatened to create within mortgage market an anomalous lack of credit availability “that could materially and severely disrupt the functioning of housing finance system of the U.S.,” and temporarily (6		

FEATURES	CORKER-WARNER BILL (S. 1217) INTRODUCED JUNE 25, 2013	JOHNSON-CRAPO SUBSTITUTE TO S. 1217—DRAFT MARCH 16, 2014	PATH ACT (H.R. 2767) AMENDED JULY 24, 2013 ²	WATERS BILL (DRAFT) MARCH 27, 2014 (HOME FORWARD ACT OF 2014)
	months) provide insurance for non-covered securities; authority may not be exercised more than once in 3-year period §305: if significant decline in home values for at least 2 calendar quarters, FMIC may implement HARP-like insurance program for 6 months	months) provide insurance for non-covered securities and establish provisional standards for approved entities; FMIC may exercise such authority for 2 additional 9-month periods, but not more than 3 times within any 3-year period		

Authors

Oliver I. Ireland
Washington, D.C.
(202) 778-1614
oireland@mofo.com

Donald C. Lampe
Washington, D.C.
(202) 887-1524
dlampe@mofo.com

About Morrison & Foerster

We are Morrison & Foerster — a global firm of exceptional credentials. Our clients include some of the largest financial institutions, investment banks, Fortune 100, technology and life sciences companies. We've been included on *The American Lawyer's* A-List for 10 straight years, and *Fortune* named us one of the "100 Best Companies to Work For." Our lawyers are committed to achieving innovative and business-minded results for our clients, while preserving the differences that make us stronger. This is MoFo. Visit us at www.mofo.com. © 2014 Morrison & Foerster LLP. All rights reserved.

For more updates, follow Thinkingcapmarkets, our Twitter feed: www.twitter.com/Thinkingcapmkt.

Because of the generality of this update, the information provided herein may not be applicable in all situations and should not be acted upon without specific legal advice based on particular situations.