

112TH CONGRESS
1ST SESSION

H. R. 3644

To increase standardization, transparency, and to ensure the rule of law
in the mortgage-backed security system, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 13, 2011

Mr. GARRETT (for himself, Mr. BACHUS, Mr. HENSARLING, Mr. SCHWEIKERT, Mr. NEUGEBAUER, Mrs. BIGGERT, and Mrs. CAPITO) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To increase standardization, transparency, and to ensure the
rule of law in the mortgage-backed security system, and
for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Private Mortgage Market Investment Act”.

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

Sec. 1. Short title; Table of contents.

TITLE I—STANDARDIZATION AND UNIFORMITY

- Sec. 101. Facilitating continued standardization and uniformity.
- Sec. 102. Repeal of credit risk retention provisions.
- Sec. 103. Exemption from registration of certain securities conforming to standard securitization agreements.
- Sec. 104. Judicial review.
- Sec. 105. Liability for misleading statements.
- Sec. 106. Unlawful representation.
- Sec. 107. Penalties.
- Sec. 108. Contrary stipulations void.

TITLE II—TRANSPARENCY

- Sec. 201. Requirements for the disclosure of loan-level information to investors, rating agencies, and regulators.
- Sec. 202. Mandatory period for review of loan-level information prior to investment.
- Sec. 203. Dissemination of pricing information of asset-backed securities.
- Sec. 204. Alphanumeric identification of residential mortgage loans in asset-backed securities.

TITLE III—ENSURING THE RULE OF LAW

- Sec. 301. Ensure rule of law and legal certainty.
- Sec. 302. Limitation on mortgages held by loan servicers.
- Sec. 303. Clarification of qualified mortgage exception.
- Sec. 304. FDIC safe harbor.
- Sec. 305. Effective date.

1 **TITLE I—STANDARDIZATION**
 2 **AND UNIFORMITY**
 3 **SEC. 101. FACILITATING CONTINUED STANDARDIZATION**
 4 **AND UNIFORMITY.**

5 (a) ESTABLISHMENT OF STANDARD MORTGAGE
 6 CLASSIFICATIONS.—

7 (1) ESTABLISHMENT.—The Director of the
 8 Federal Housing Finance Agency (hereinafter in this
 9 Act referred to as the “Director”) shall, for pur-
 10 poses of this section, prescribe classifications for
 11 mortgages having various degrees of credit risk,
 12 ranging from a classification of mortgages having
 13 little to no credit risk to a classification of mort-

1 gages having higher credit risk, with the goals of
2 maximizing the pricing of credit risk, allowing for
3 the trading of securities collateralized by the classi-
4 fications of mortgages established pursuant to this
5 section in a forward market, and maintaining well
6 functioning liquid markets in securities collateralized
7 by each of the classifications of mortgages estab-
8 lished pursuant to this section.

9 (2) UNDERWRITING CRITERIA STANDARDS.—

10 (A) UNDERWRITING CRITERIA.—For each
11 of the classifications of mortgages established
12 under paragraph (1), the Director shall estab-
13 lish standards for each of the following under-
14 writing criteria:

15 (i) DEBT-TO-INCOME RATIO.—The
16 ratio of the amount of the total monthly
17 debt of the mortgagor to the amount of the
18 monthly income of the mortgagor.

19 (ii) LOAN-TO-VALUE RATIO.—The
20 ratio of the original principal obligation
21 under the mortgage to the original value of
22 the residence subject to the mortgage.

23 (iii) CREDIT HISTORY.—Information
24 on the credit history of the mortgagor, in-
25 cluding the credit score of the mortgagor.

1 (iv) LOAN DOCUMENTATION.—The ex-
2 tent of loan documentation and verification
3 of the financial resources of the mortgagor
4 used to qualify the mortgagor for the
5 mortgage.

6 (v) OCCUPANCY.—Whether the resi-
7 dence subject to the mortgage is occupied
8 by the mortgagor.

9 (vi) CREDIT ENHANCEMENT.—Wheth-
10 er any mortgage insurance or other type of
11 insurance or credit enhancement was ob-
12 tained at the time of origination.

13 (vii) LOAN PAYMENT TERMS.—

14 (I) IN GENERAL.—The terms of
15 the mortgage that determine the mag-
16 nitude and timing of payments due
17 from the mortgagor, including the
18 term to maturity of the mortgage, the
19 frequency of payment, the type of am-
20 ortization, any prepayment penalties,
21 and whether the interest rate is fixed
22 or may vary.

23 (II) INCLUSION OF 30-YEAR
24 FIXED INTEREST RATE.—Terms es-
25 tablished under subclause (I) shall in-

1 clude a 30-year fixed interest rate
2 mortgage.

3 (viii) OTHER.—Such other under-
4 writing criteria as the Director may estab-
5 lish consistent with the goals of this title.

6 (B) OBJECTIVE.—In developing the under-
7 writing criteria standards under subparagraph
8 (A), the Director shall seek to ensure that such
9 standards are readily identifiable to sponsors of,
10 and investors in, securities collateralized by
11 mortgages so that such sponsors and investors
12 can clearly determine the classification to which
13 a mortgage belongs.

14 (3) DEFINITIONS.—The Director shall, for pur-
15 poses of this subsection, prescribe definitions for
16 each of the following terms:

17 (A) MORTGAGE.—The term “mortgage”,
18 which definition shall include only mortgages on
19 residential properties.

20 (B) DEFAULT.—The term “default”, with
21 respect to a mortgage.

22 (C) DELINQUENCY.—The term “delin-
23 quency”, with respect to a mortgage.

1 (D) LOAN DOCUMENTATION.—The term
2 “loan documentation”, with respect to a mort-
3 gage.

4 (E) ADDITIONAL TERMS.—Such other
5 terms as the Director may establish.

6 (b) STANDARD FORM SECURITIZATION AGREE-
7 MENTS.—

8 (1) IN GENERAL.—The Director shall develop,
9 adopt, and publish standard form securitization
10 agreements for mortgages established under sub-
11 section (a).

12 (2) REQUIRED CONTENT.—The standard form
13 securitization agreements to be developed under
14 paragraph (1) shall only include terms relating to—

15 (A) pooling and servicing;

16 (B) purchase and sale;

17 (C) representations and warranties, includ-
18 ing representations and warranties as to com-
19 pliance or conformity with standards estab-
20 lished by the Director pursuant to subsections
21 (c), (d), (e), and (f), as appropriate;

22 (D) indemnification and remedies, includ-
23 ing principles of a repurchase program that will
24 ensure an appropriate amount of risk retention

1 under the representations and warranties set
2 forth under subparagraph (C); and

3 (E) the qualification, responsibilities, and
4 duties of trustees.

5 (3) PUBLIC INVOLVEMENT.—In issuing rules
6 and regulations under this section, the Director shall
7 allow appropriate notice and comment in accordance
8 with the chapter 5 of title 5, United States Code
9 (commonly referred to as the “Administrative Proce-
10 dures Act”). The Director shall work with industry
11 groups, including servicers, originators, and mort-
12 gage investors to develop the standards under this
13 title.

14 (4) QUALIFIED SECURITY.—For purposes of
15 this title, the term “qualified security” means a se-
16 curity that—

17 (A) is issued in accordance with a standard
18 form securitization agreement;

19 (B) is issued by a qualified sponsor;

20 (C) is collateralized by a class, or multiple
21 classes, of mortgages established under this
22 title; and

23 (D) is not guaranteed, in whole or in part,
24 by the United States Government.

1 (c) STANDARDS FOR SERVICER REPORTING.—The
2 Director shall develop, adopt, and publish standards for
3 the reporting obligations of servicers of any mortgage that
4 serves as collateral for a qualified security.

5 (d) STANDARDS FOR SERVICING.—The Director shall
6 develop, adopt, and publish—

- 7 (1) servicing standards, including for the modi-
8 fication, restructuring, or work-out of any mortgage
9 that serves as collateral for a qualified security; and
10 (2) a servicer succession plan which may in-
11 clude provisions for—

12 (A) a specialty servicer that can replace
13 the existing servicer if the performance of the
14 mortgage pool deteriorates to specified levels;
15 and

16 (B) a plan to achieve consistency in serv-
17 icing systems related to systematic note-taking,
18 consistent mailing addresses, and other points
19 of contact for borrowers to use, among other
20 items.

21 (e) STANDARDS FOR DOCUMENTATION.—The Direc-
22 tor shall develop, adopt and publish standards for docu-
23 mentation used to verify the financial resources of a mort-
24 gator and to qualify the mortgagor for any mortgage that
25 may become collateral for any qualified security, including

1 the form, content, and method of documentation of any
2 such mortgage. Such standards shall also address any cus-
3 todial or delivery obligations related to such documents.

4 (f) STANDARDS FOR QUALIFIED SPONSORS.—

5 (1) IN GENERAL.—The Director shall develop,
6 adopt, and publish standards for a sponsor to qual-
7 ify as a qualified sponsor. Such standards shall only
8 include—

9 (A) the experience and integrity of the
10 sponsor and its principals, including compliance
11 history with Federal and State laws;

12 (B) the adequacy of insurance and fidelity
13 coverage of the sponsor with respect to errors
14 and omissions; and

15 (C) a requirement that the sponsor submit
16 audited financial statements to the Director,
17 who shall make such statements publicly avail-
18 able through the Federal Housing Finance
19 Agency's website.

20 (2) APPLICATION PROCESS.—

21 (A) IN GENERAL.—The Director shall es-
22 tablish an application process for the qualifica-
23 tion of sponsors, in such form and manner and
24 requiring such information as the Director may

1 require, in accordance with standards adopted
2 under paragraph (1).

3 (B) APPROVAL.—The Director shall ap-
4 prove any application made pursuant to sub-
5 paragraph (A) unless the sponsor does not meet
6 the standards adopted under paragraph (1).

7 (C) PUBLICATION.—The Director shall
8 publish a list of newly qualified sponsors in the
9 Federal Register and maintain an updated list
10 of qualified sponsors on the Federal Housing
11 Finance Agency’s website.

12 (3) REVIEW AND REVOCATION OF QUALIFIED
13 STATUS.—

14 (A) IN GENERAL.—The Director may only
15 review the status of a qualified sponsor if the
16 Director is notified that a claim has been made
17 against the sponsor by a trustee with respect to
18 a violation of a contractual term in a
19 securitization document of the sponsor.

20 (B) REVOCATION.—

21 (i) IN GENERAL.—Subject to subpara-
22 graph (C), if the Director determines, in a
23 review pursuant to subparagraph (A), that
24 a sponsor no longer meets the standards

1 for qualification, the Director shall revoke
2 the sponsor's qualified status.

3 (ii) CONSTRUCTION.—The revocation
4 of a sponsor's qualified status under this
5 subparagraph shall—

6 (I) have no effect on the qualified
7 status of any security; and

8 (II) not relieve the sponsor of
9 any representations, warranties, or re-
10 purchase obligations related to any
11 qualified security issued before such
12 revocation.

13 (C) GRACE PERIOD.—The Director shall
14 issue regulations that permit a qualified spon-
15 sor who no longer meets the standards for qual-
16 ification to have a grace period during which
17 the sponsor can work to meet such standards
18 without losing the sponsor's qualified status.

19 (D) PUBLICATION.—The Director shall
20 publish a list of sponsors who lost their quali-
21 fied status in the Federal Register and main-
22 tain an updated list of such sponsors on the
23 Federal Housing Finance Agency's website.

24 (g) STANDARDS FOR TRUSTEES.—

1 (1) IN GENERAL.—There shall at all times be
2 one or more trustee for each pool of mortgages that
3 acts as collateral for a qualified security.

4 (2) RULEMAKING.—The Director shall issue
5 regulations regarding the qualifications of trustees
6 under paragraph (1) that shall, to the extent prac-
7 ticable, be the same as the qualification provisions
8 applicable to trustees under section 310(a) of the
9 Trust Indenture Act of 1934 (15 U.S.C. 77jjj(a)).

10 (3) CONFLICTS OF INTEREST.—The Director
11 shall issue conflict of interest regulations that apply
12 to a qualified trustee. Such regulations shall, to the
13 extent practicable, be the same as those conflict of
14 interest provisions applicable to an indenture trustee
15 under section 310(b) of the Trust Indenture Act of
16 1934 (15 U.S.C. 77jjj(b)).

17 (4) REPORTING OF CLAIMS.—Any time a trust-
18 ee brings a claim against a qualified sponsor on be-
19 half of investors with respect to a standard form
20 securitization agreement, the trustee shall notify the
21 Director of such claim.

22 (5) PROTECTION OF INVESTOR RIGHTS.—For
23 the purpose of protecting investor rights, each trust-
24 ee shall—

1 (A) maintain a list of all investors (bene-
2 ficial owners) in a qualified security;

3 (B) update such list from time to time;

4 (C) not make such list available to inves-
5 tors (beneficial owners); and

6 (D) act as a means to communicate infor-
7 mation about the qualified security to investors
8 (beneficial owners) and act as a means for in-
9 vestors (beneficial owners) to communicate with
10 each other.

11 (6) NO LIABILITY FOR CERTAIN COMMUNICA-
12 TIONS.—A trustee shall not be liable for the content
13 of any information provided to the trustee by an in-
14 vestor (beneficial owner) that the trustee commu-
15 nicates to another investor (beneficial owner).

16 (7) INVESTOR (BENEFICIAL OWNER) NOTIFICA-
17 TION OF TRUSTEE.—A person who becomes an in-
18 vestor (beneficial owner) in a qualified security shall
19 promptly notify the trustee of such security of the
20 change in ownership.

21 (h) INDEPENDENT THIRD PARTY.—If the majority
22 of investors in a pool of qualified securities choose to hire
23 an independent third party to act on behalf of the best
24 interests of the investors (beneficial owners), such party
25 shall—

1 (1) be granted access to the loan documents for
2 the mortgage loans backing such security and all
3 servicing reports the servicer provides to investors
4 (beneficial owners) or the trustee;

5 (2) be granted access to the list of investors
6 (beneficial owners) maintained by the trustee, on the
7 condition that the independent third party will not
8 make the list available to the investors (beneficial
9 owners); and

10 (3) have the right, on behalf of the investors
11 (beneficial owners), to inform the trustee of such se-
12 curities of any breach of the securitization agree-
13 ment identified by the third party.

14 (i) **TIMING; AUTHORITY TO REVISE STANDARDS.—**

15 (1) **TIMING.—**The Director shall develop, adopt,
16 and publish the standards required under this title,
17 not later than the expiration of the 12-month period
18 beginning upon the date of the enactment of this
19 title.

20 (2) **AUTHORITY TO REVISE.—**

21 (A) **IN GENERAL.—**The Director may re-
22 view, revise and, if revised, re-publish any
23 standard form securitization agreement or other
24 standard required to be developed under this
25 section if the Director determines review or re-

1 vision to be necessary or appropriate to satisfy
2 the goals of this title.

3 (B) APPLICATION OF REVISIONS.—Any re-
4 vision made pursuant to subparagraph (A) shall
5 only apply to securitizations made after the
6 date of such revision.

7 (j) MANDATORY ARBITRATION.—

8 (1) IN GENERAL.—All disputes between an
9 owner of a qualified security and the qualified spon-
10 sor of such security relating to representations and
11 warranties shall be subject to mandatory arbitration
12 procedures established by the Director, in accord-
13 ance with current market practices.

14 (2) SELECTION OF ARBITRATOR.—Investors
15 (beneficial owners) and sponsors subject to a dispute
16 described under paragraph (1) shall have the right
17 to agree on an independent arbitrator. If the parties
18 cannot agree on an independent arbitrator, the Di-
19 rector shall select an independent arbitrator for the
20 parties.

21 (3) REPORTING DUTY OF ARBITRATOR.—

22 (A) UPON COMMENCEMENT.—The arbi-
23 trator shall provide the Federal Housing Fi-
24 nance Agency with notice upon the commence-
25 ment of any arbitration under this subsection.

1 (B) UPON CONCLUSION.—Upon the con-
2 clusion of any arbitration under this subsection,
3 the arbitrator shall provide the Federal Hous-
4 ing Finance Agency with—

5 (i) the decision reached by the arbi-
6 trator; and

7 (ii) the basis for the arbitrator’s deci-
8 sion, including any evidence or testimony
9 received during the arbitration process.

10 (k) DISCLOSURE OF INFORMATION.—

11 (1) IN GENERAL.—

12 (A) IN GENERAL.—Not later than 6
13 months after the date of the enactment of this
14 Act, the Director shall, by rule—

15 (i) require sponsors of qualified secu-
16 rities to disclose all pertinent information
17 relating to the residential mortgage loans
18 that comprise such securities, including in-
19 formation set forth in the underwriting
20 standards established under subsection (a);
21 and

22 (ii) allow for the trading of qualified
23 securities under this title in a forward
24 market.

1 (B) PRIVACY PROTECTIONS.—In pre-
2 scribing the rules required under this para-
3 graph, the Director shall take into consideration
4 issues of consumer privacy and all statutes,
5 rules, and regulations related to privacy of con-
6 sumer credit information and personally identi-
7 fiable information. Such rules shall expressly
8 prohibit the identification of specific borrowers.

9 (2) CONSULTATION.—In issuing any rules or
10 regulations under this subsection, the Director shall
11 consult with the Securities and Exchange Commis-
12 sion.

13 **SEC. 102. REPEAL OF CREDIT RISK RETENTION PROVI-**
14 **SIONS.**

15 (a) IN GENERAL.—Section 15G of the Securities Ex-
16 change Act of 1934 (15 U.S.C. 78o–11) is repealed and
17 any regulations promulgated under such section shall have
18 no force or effect.

19 (b) CONFORMING AMENDMENT.—Section 27B of the
20 Securities Act of 1933 is amended by striking subsection
21 (d).

22 (c) PROHIBITION.—The Office of the Comptroller of
23 the Currency, the Board of Governors of the Federal Re-
24 serve System, the Federal Deposit Insurance Corporation,
25 the Bureau of Consumer Financial Protection, and the Se-

1 securities and Exchange Commission shall not issue any rule
2 or regulation to require risk retention, any premium cap-
3 ture cash reserve account, or any similar mechanism, un-
4 less directly authorized by an Act of Congress.

5 **SEC. 103. EXEMPTION FROM REGISTRATION OF CERTAIN**
6 **SECURITIES CONFORMING TO STANDARD**
7 **SECURITIZATION AGREEMENTS.**

8 Section 3(a) of the Securities Act of 1933 (15 U.S.C.
9 77c(a)) is amended by adding at the end the following:
10 “(14) Any qualified security, as such term is
11 defined under section 101(b)(4) of the Private Mort-
12 gage Market Investment Act.”.

13 **SEC. 104. JUDICIAL REVIEW.**

14 (a) **IN GENERAL.**—Orders of the Federal Housing
15 Finance Agency under this title shall be subject to review
16 in the same manner, upon the same conditions, and to
17 the same extent, as provided in section 9 of the Securities
18 Act of 1933, with respect to orders of the Securities and
19 Exchange Commission under such title.

20 (b) **JURISDICTION.**—Jurisdiction of offenses and vio-
21 lations under, and jurisdiction and venue of suits and ac-
22 tions brought to enforce any liability or duty created by,
23 this Act, or any rules or regulations or orders prescribed
24 under the authority thereof, shall be as provided in section
25 22(a) of the Securities Act of 1933.

1 **SEC. 105. LIABILITY FOR MISLEADING STATEMENTS.**

2 (a) IN GENERAL.—Any person who shall make or
3 cause to be made any statement in any application, report,
4 or document filed with the Federal Housing Finance
5 Agency pursuant to any provisions of this title, or any
6 rule, regulation, or order thereunder, which statement was
7 at the time and in the light of the circumstances under
8 which it was made false or misleading with respect to any
9 material fact, or who shall omit to state any material fact
10 required to be stated therein or necessary to make the
11 statements therein not misleading, shall be liable to any
12 person (not knowing that such statement was false or mis-
13 leading or of such omission) who, in reliance upon such
14 statement or omission, shall have purchased or sold a se-
15 curity issued under the indenture to which such applica-
16 tion, report, or document relates, for damages caused by
17 such reliance, unless the person sued shall prove that he
18 acted in good faith and had no knowledge that such state-
19 ment was false or misleading or of such omission. A per-
20 son seeking to enforce such liability may sue at law or
21 in equity in any court of competent jurisdiction. In any
22 such suit the court may, in its discretion, require an un-
23 dertaking for the payment of the costs of such suit and
24 assess reasonable costs, including reasonable attorneys’
25 fees, against either party litigant, having due regard to
26 the merits and good faith of the suit or defense. No action

1 shall be maintained to enforce any liability created under
2 this section unless brought within one year after the dis-
3 covery of the facts constituting the cause of action and
4 within three years after such cause of action accrued.

5 (b) RIGHTS AND REMEDIES UNDER OTHER LAW.—
6 The rights and remedies provided by this title shall be in
7 addition to any and all other rights and remedies that may
8 exist under the Securities Act of 1933 or the Securities
9 Exchange Act of 1934 or otherwise at law or in equity;
10 but no person permitted to maintain a suit for damages
11 under the provisions of this title shall recover, through sat-
12 isfaction of judgment in one or more actions, a total
13 amount in excess of his actual damages on account of the
14 act complained of.

15 **SEC. 106. UNLAWFUL REPRESENTATION.**

16 It shall be unlawful for any person in offering, selling,
17 or issuing any security pursuant to this title to represent
18 or imply in any manner whatsoever that any action or fail-
19 ure to act by the Federal Housing Finance Agency in the
20 administration of this title means that the Federal Hous-
21 ing Finance Agency has in any way passed upon the mer-
22 its of, or given approval to, any trustee, indenture, or secu-
23 rity, or any transaction or transactions therein, or that
24 any such action or failure to act with regard to any state-
25 ment or report filed with or examined by the Federal

1 Housing Finance Agency pursuant to this title or any rule,
2 regulation, or order thereunder, has the effect of a finding
3 by the Federal Housing Finance Agency that such state-
4 ment or report is true and accurate on its face or that
5 it is not false or misleading.

6 **SEC. 107. PENALTIES.**

7 Any person who willfully violates any provision of this
8 title or any rule, regulation, or order thereunder, or any
9 person who willfully, in any application, report, or docu-
10 ment filed or required to be filed under the provisions of
11 this title or any rule, regulation, or order thereunder,
12 makes any untrue statement of a material fact or omits
13 to state any material fact required to be stated therein
14 or necessary to make the statements therein not mis-
15 leading, shall be subject to the penalties set forth under
16 section 325 of the Trust Indenture Act of 1934 (15 U.S.C.
17 77yyy).

18 **SEC. 108. CONTRARY STIPULATIONS VOID.**

19 Any condition, stipulation, or provision binding any
20 person to waive compliance with any provision of this title
21 or with any rule, regulation, or order thereunder shall be
22 void.

TITLE II—TRANSPARENCY

SEC. 201. REQUIREMENTS FOR THE DISCLOSURE OF LOAN- LEVEL INFORMATION TO INVESTORS, RATING AGENCIES, AND REGULATORS.

(a) RULES.—Not later than 6 months after the date of the enactment of this title, the Securities and Exchange Commission shall, by rule, require sponsors of residential mortgage-backed securities to disclose all pertinent information relating to the residential mortgage loans that comprise such securities, including information regarding the income and credit score of borrowers, the loan to value ratios, the remaining term to maturity of the loans, and require loan-level data to be updated on a monthly basis. Such rules shall apply to residential mortgage-backed securities that—

(1) are registered pursuant to section 6 of the Securities Act of 1933 (15 U.S.C. 77f); and

(2) are offered or sold in reliance on Regulation D (17 CFR 230.506) and Rule 144A (17 CFR 230.144A) of the Commission.

(b) PRIVACY PROTECTIONS.—In prescribing the rules required under subsection (a), the Commission shall take into consideration issues of consumer privacy and all statutes, rules, and regulations related to privacy of consumer credit information and personally identifiable information.

1 Such rules shall expressly prohibit the identification of
2 specific borrowers.

3 (c) RULES NOT APPLICABLE TO QUALIFIED SECURI-
4 TIES.—The rules prescribed under subsection (a) shall not
5 apply to any qualified security, as such term is defined
6 under section 101(b)(4).

7 **SEC. 202. MANDATORY PERIOD FOR REVIEW OF LOAN-**
8 **LEVEL INFORMATION PRIOR TO INVEST-**
9 **MENT.**

10 Not later than 6 months after the date of the enact-
11 ment of this title, the Securities and Exchange Commis-
12 sion shall revise its rules and regulations to require spon-
13 sors of asset-backed securities under section 5 of the Secu-
14 rities Act of 1933 (15 U.S.C. 77e) to file a preliminary
15 prospectus containing all material terms of the transaction
16 at least 5 days before investors make an investment deci-
17 sion.

18 **SEC. 203. DISSEMINATION OF PRICING INFORMATION OF**
19 **ASSET-BACKED SECURITIES.**

20 Not later than 6 months after the date of the enact-
21 ment of this title, the Securities and Exchange Commis-
22 sion shall, by rule, require the dissemination of trans-
23 action, volume, and pricing information of trades in asset-
24 backed securities. Such rules shall require the dissemina-
25 tion of such information, with exceptions as may be pre-

1 scribed by the Commission in the public interest, while
2 taking into consideration the effect of such dissemination
3 on market liquidity, through the Financial Industry Regu-
4 latory Authority's fixed income transparency facility, re-
5 ferred to as Trade Reporting and Compliance Engine
6 (TRACE), or through a similar vehicle.

7 **SEC. 204. ALPHANUMERIC IDENTIFICATION OF RESIDEN-**
8 **TIAL MORTGAGE LOANS IN ASSET-BACKED**
9 **SECURITIES.**

10 Not later than 6 months after the date of the enact-
11 ment of this title, the Securities and Exchange Commis-
12 sion shall, by rule, require that each mortgage loan com-
13 prising a residential mortgage-backed security be assigned
14 and carry with it a unique alphanumeric code that identi-
15 fies the loan in order to facilitate ascertaining relevant in-
16 formation about the loan.

17 **TITLE III—ENSURING THE RULE**
18 **OF LAW**

19 **SEC. 301. ENSURE RULE OF LAW AND LEGAL CERTAINTY.**

20 (a) **JUNIOR MORTGAGE OR LIEN.**—With respect to
21 the dwelling of a borrower that serves as security for a
22 securitized senior mortgage loan, if the borrower enters
23 into any credit transaction that would result in the cre-
24 ation of a new mortgage or other lien on such dwelling
25 where the loan-to-value ratio of such credit transaction

1 amount is 80 percent or more, the servicer of the senior
2 mortgage loan shall have the right to charge the borrower
3 an additional monthly fee in an amount sufficient to offset
4 the increased risk to repayment of such loan because of
5 the creation of the new mortgage or other lien.

6 (b) NOTICE OF JUNIOR MORTGAGE OR LIEN.—With
7 respect to the dwelling of a borrower that serves as secu-
8 rity for a securitized senior mortgage loan, if the borrower
9 enters into any credit transaction that would result in the
10 creation of a new mortgage or other lien on such dwelling,
11 the creditor of such new mortgage or other lien shall notify
12 the servicer of the senior mortgage loan of the existence
13 of the new mortgage or other lien.

14 (c) PREVENTION OF FORCED PRINCIPAL WRITE-
15 DOWNS.—With respect to a securitized mortgage loan, no
16 Federal department or agency, including the Board of
17 Governors of the Federal Reserve System and the Bureau
18 of Consumer Financial Protection, may require a reduc-
19 tion in the principal amount owed on such mortgage loan.

20 **SEC. 302. LIMITATION ON MORTGAGES HELD BY LOAN**
21 **SERVICERS.**

22 (a) LIMITATION.—Neither the servicer of a residen-
23 tial mortgage loan, nor any affiliate of such servicer, may
24 own, or hold any interest in, any other residential mort-
25 gage loan that is secured by a mortgage, deed of trust,

1 or other equivalent consensual security interest on the
2 same dwelling or residential real property that is subject
3 to the mortgage, deed of trust, or other security interest
4 that secures the residential mortgage loan serviced by the
5 servicer.

6 (b) DEFINITIONS.—For purposes of this section, the
7 following definitions shall apply:

8 (1) AFFILIATE.—The term “affiliate” means,
9 with respect to a servicer, any person or entity that
10 controls, is controlled by, or is under common con-
11 trol with such servicer, as the Director shall pre-
12 scribe by regulation.

13 (2) RESIDENTIAL MORTGAGE LOAN.—The term
14 “residential mortgage loan” means any consumer
15 credit transaction that is secured by a mortgage,
16 deed of trust, or other equivalent consensual security
17 interest on a dwelling or on residential real property
18 that includes a dwelling, other than a consumer
19 credit transaction under an open end credit plan or
20 an extension of credit relating to a plan described in
21 section 101(53D) of title 11, United States Code.

22 (3) SERVICER.—The term “servicer” has the
23 meaning provided in section 129A of the Truth in
24 Lending Act, except that such term includes a per-
25 son who makes or holds a residential mortgage loan

1 (including a pool of residential mortgage loans) if
2 such person also services the loan.

3 (c) INTERESTS.—For purposes of subsection (a),
4 ownership of, or holding an interest in a residential mort-
5 gage loan includes ownership of, or holding an interest
6 in—

7 (1) a pool of residential mortgage loans that
8 contains such residential mortgage loan; or

9 (2) any security based on or backed by a pool
10 of residential mortgage loans that contains such res-
11 idential mortgage loan.

12 (d) EFFECTIVE DATE.—This section shall apply—

13 (1) with respect to the servicer (or affiliate of
14 the servicer) of a residential mortgage loan that is
15 originated after the date of the enactment of this
16 Act, on such date of enactment; and

17 (2) with respect to the servicer (or affiliate of
18 the servicer) of a residential mortgage loan that is
19 originated on or before the date of the enactment of
20 this Act, upon the expiration of the 12-month period
21 beginning upon such date of enactment.

22 **SEC. 303. CLARIFICATION OF QUALIFIED MORTGAGE EX-**
23 **CEPTION.**

24 Subsection (b) of section 129C of the Truth in Lend-
25 ing Act is amended—

1 (1) in the heading of such subsection, by strik-
2 ing “PRESUMPTION OF ABILITY TO REPAY” and in-
3 serting “EXCEPTION FOR QUALIFIED MORTGAGES”;

4 (2) by amending paragraph (1) to read as fol-
5 lows:

6 “(1) IN GENERAL.—Subsection (a) shall not
7 apply to a residential mortgage loan that is a quali-
8 fied mortgage.”; and

9 (3) in paragraph (3), by amending subpara-
10 graph (B) to read as follows:

11 “(B) LOAN DEFINITION.—The following
12 agencies shall, in consultation with the Bureau,
13 prescribe rules defining the types of loans they
14 insure, guarantee, or administer, as the case
15 may be, that are qualified mortgages for pur-
16 poses of paragraph (2)(A):

17 “(i) The Department of Housing and
18 Urban Development, with regard to mort-
19 gages insured under the National Housing
20 Act (12 U.S.C. 1707 et seq.).

21 “(ii) The Department of Veterans Af-
22 fairs, with regard to a loan made or guar-
23 anteed by the Secretary of Veterans Af-
24 fairs.

1 “(iii) The Department of Agriculture,
2 with regards to loans guaranteed by the
3 Secretary of Agriculture pursuant to sec-
4 tion 502(h) of the Housing Act of 1949
5 (42 U.S.C. 1472(h)).

6 “(iv) The Rural Housing Service, with
7 regards to loans insured by the Rural
8 Housing Service.”.

9 **SEC. 304. FDIC SAFE HARBOR.**

10 If a pool of mortgages meets the standards set forth
11 by the Federal Housing Finance Agency pursuant to title
12 I and is securitized in accordance with the standards set
13 forth under title I, then the Federal Deposit Insurance
14 Corporation safe harbor rule under section 360.6 of title
15 12, Code of Federal Regulations, shall apply to the pool
16 of mortgages.

17 **SEC. 305. EFFECTIVE DATE.**

18 Except as otherwise specifically provided, this title
19 and the amendments made by this title shall take effect
20 on the date of the enactment of this Act.

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