

112TH CONGRESS
1ST SESSION

S. 1834

To restore and repair the United States mortgage markets by making them transparent, bringing in private capital, winding down the Government-sponsored enterprises, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 9, 2011

Mr. CORKER introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To restore and repair the United States mortgage markets by making them transparent, bringing in private capital, winding down the Government-sponsored enterprises, 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.**

4 This Act may be cited as the “Residential Mortgage
5 Market Privatization and Standardization Act of 2011”.

6 **SEC. 2. DEFINITIONS.**

7 For purposes of this Act, the following definitions
8 shall apply:

1 (1) COVERED MORTGAGE LOAN.—

2 (A) IN GENERAL.—The term “covered
3 mortgage loan” means any residential mortgage
4 loan, including any single-family and multi-
5 family loan, that is originated, serviced, or sub-
6 serviced, in whole or in part, owned directly or
7 indirectly, including through any interest in a
8 security that is backed in whole or in part by
9 a mortgage loan, or securitized or resecuritized,
10 by an entity or affiliate or subsidiary thereof
11 that is regulated by any of the agencies listed
12 in subparagraph (B).

13 (B) AGENCIES.—The agencies listed in
14 this subparagraph are—

15 (i) the Board of Governors of the
16 Federal Reserve System;

17 (ii) the Department of Agriculture;

18 (iii) the Department of Housing and
19 Urban Development;

20 (iv) the Federal Deposit Insurance
21 Corporation;

22 (v) the Federal Housing Finance
23 Agency;

24 (vi) the Farm Credit Administration;

25 (vii) the Federal Trade Commission;

1 (viii) the Office of the Comptroller of
2 the Currency;

3 (ix) the National Credit Union Ad-
4 ministration; and

5 (x) the Securities and Exchange Com-
6 mission.

7 (2) ENTERPRISES.—The term “enterprises”
8 means, individually and collectively, the Federal Na-
9 tional Mortgage Association and the Federal Home
10 Loan Mortgage Corporation.

11 (3) FHFA; DIRECTOR.—The terms “FHFA”
12 and “Director” mean the Federal Housing Finance
13 Agency and the Director thereof, respectively.

14 (4) MORTGAGE DATA.—

15 (A) IN GENERAL.—The Director shall de-
16 fine mortgage data, by regulation, consistent
17 with this paragraph.

18 (B) SINGLE-FAMILY LOANS.—For single-
19 family covered mortgage loans, the term “mort-
20 gage data” means, as of the date of origina-
21 tion—

22 (i) the loan origination date and the
23 loan maturity date;

1 (ii) whether the loan is a purchase
2 loan or a refinance, and for refinance
3 loans—

4 (I) the date on which the refi-
5 nanced loan was originated;

6 (II) the identity of the lender on
7 the refinanced loan; and

8 (III) the unpaid principal balance
9 of the refinanced loan that was repaid
10 by the new loan;

11 (iii) the value of the collateral prop-
12 erty on which the lender relied, and how
13 the lender determined the value;

14 (iv) the credit score or scores that the
15 lender used or on which it relied, and the
16 entity that supplied each;

17 (v) debt-to-income ratios, including—

18 (I) the ratio of the total debt of
19 the borrower and coborrowers, ex-
20 pressed as a monthly payment
21 amount, to the total current and ex-
22 pected future income of the borrower
23 and any coborrowers on which the
24 lender relied, expressed as a monthly
25 income amount; and

- 1 (II) the ratio of the first sched-
2 uled payment on the loan, expressed
3 as a monthly payment amount, to the
4 total current and expected future in-
5 come of the borrower and any cobor-
6 rowers on which the lender relied, ex-
7 pressed as a monthly income amount;
- 8 (vi) the total value of borrower assets,
9 but not including the value of the collateral
10 and not including income, on which the
11 lender relied;
- 12 (vii) the principal amount of the loan;
- 13 (viii) the interest rate on the loan;
- 14 (ix) if the interest rate may adjust
15 under the loan terms, the terms and limits
16 of any permissible adjustment, including
17 the index and margin, if applicable, when
18 the rate may adjust, and any caps or floors
19 on any such adjustment;
- 20 (x) if the principal may increase under
21 the loan terms at origination, the terms
22 and limits of any permissible increase, in-
23 cluding when the increase or increases may
24 occur, how the amount and timing of any

1 increase is determined, and any caps on
2 any such increases;

3 (xi) if the payment amount may ad-
4 just, independently of a rate adjustment or
5 of an increase in the principal amount, the
6 terms and limits of any permissible adjust-
7 ment, including when the adjustment may
8 occur, how the amount and timing of any
9 adjustment is determined, and any caps or
10 floors on any such adjustments;

11 (xii) whether, under the loan terms,
12 the borrower may be required to pay any
13 prepayment penalty, and if so, the poten-
14 tial amount and timing of any such pen-
15 alty;

16 (xiii) any permissible grace periods
17 and late fees under the loan terms, includ-
18 ing fee amounts permitted on the loan;

19 (xiv) whether the borrower or any co-
20 borrower has stated an intent to reside in
21 the property as a principal residence;

22 (xv) whether the loan is assumable
23 under the loan terms at origination and if
24 so, the conditions on which any assumption
25 may be denied;

1 (xvi) whether the originating lender
2 was or is aware of any subordinate or sen-
3 ior lien on the property at the time at
4 which the loan was originated, and if so,
5 the identity of all lenders or other
6 lienholders of such other loans, the relative
7 lien position of each, and the date of origi-
8 nation of each lien if it secures a mortgage
9 loan;

10 (xvii) the type of mortgage insurance
11 relating to the loan, including who pays it,
12 and the amount and scheduled payment
13 dates of any premiums;

14 (xviii) whether flood insurance is re-
15 quired in connection with the loan, and if
16 so, the amount and timing of premiums;

17 (xix) whether the loan has an escrow
18 account and if so, the amount of the initial
19 deposit into the escrow account and the
20 amount of the monthly payments scheduled
21 to be deposited into the escrow account;

22 (xx) the amount of points, fees, and
23 settlement charges paid to originate the
24 loan, including the amount of any com-

1 pensation paid to a mortgage broker, and
2 who paid it;

3 (xxi) whether the borrower or bor-
4 rowers have any payment assistance at
5 origination, such as government or private
6 subsidies or buydowns, and if so, the
7 amounts, terms, and timing of such assist-
8 ance; and

9 (xxii) the address of the real property
10 securing the mortgage loan.

11 (C) MULTIFAMILY LOANS.—For multi-
12 family covered mortgage loans, the term “mort-
13 gage data” means, as of the date of origina-
14 tion—

15 (i) the number of dwelling units in
16 each property securing each loan;

17 (ii) the rent on each dwelling unit, or,
18 if more than 1 has the same rent, the
19 number of units at each rent level;

20 (iii) the occupancy status of each
21 dwelling unit;

22 (iv) whether the rent is subsidized by
23 any government agency and, if so, in what
24 amounts, under what terms and conditions,
25 and for what period of time;

1 (v) whether the rent on the units is
2 current, and if not, how many days or
3 months the rent for each unit is delin-
4 quent; and

5 (vi) all of the information described in
6 subparagraph (B), except as modified by
7 the Director, by regulation, consistent with
8 this Act.

9 (D) AFTER ORIGINATION.—For both sin-
10 gle-family and multifamily covered mortgage
11 loans, beginning the day after the date of origi-
12 nation of the loan, and reported not less fre-
13 quently than monthly thereafter until the loan
14 ceases to exist, the term “mortgage data” in-
15 cludes—

16 (i) the amount and date of payments
17 received each month, including—

18 (I) whether each payment is re-
19 ceived by the due date or within a
20 grace period, and if a payment is re-
21 ceived after the scheduled due date,
22 how many days past due;

23 (II) the amount of any payment
24 deposited into an escrow account;

1 (III) amounts paid for other loan
2 charges, with an identification of the
3 amount and type of such other
4 charge; and

5 (IV) the amount of any prepay-
6 ments;

7 (ii) for loans on which any payment or
8 partial payment is overdue, the number of
9 days since the loan was current;

10 (iii) whether property taxes, hazard
11 insurance premiums, and any flood insur-
12 ance premiums required in connection with
13 the loan are paid by the borrower or bor-
14 rowers as required, and if any such item is
15 not paid as required—

16 (I) the number of days since the
17 payment was required, and the
18 amount of the missed payment;

19 (II) whether the servicer or other
20 party on behalf of the servicer paid
21 property taxes on the property, and in
22 what amount; and

23 (III) whether the servicer or
24 other party on behalf of the servicer
25 force-placed hazard or flood insur-

1 ance, and if so, the amount of the
2 premium and the identity of the in-
3 surer;

4 (iv) the amount of any interest paid
5 to the borrower on any escrow;

6 (v) the type and date of any actions
7 taken by or on behalf of the servicer due
8 to default, including nonpayment default,
9 and the amount charged to the borrower or
10 borrowers as a result of the action or ac-
11 tions; and

12 (vi) if the servicer is aware of any
13 damage to the property securing the loan,
14 the type and extent of the damage and of
15 any repairs, the amount of insurance pro-
16 ceeds paid, the amount of such proceeds
17 disbursed or paid to the borrower, and the
18 amount held by the servicer, and the date
19 and results of any inspection done by or on
20 behalf of the servicer.

21 (E) ADJUSTMENTS CONSISTENT WITH THE
22 PURPOSES OF THIS ACT.—The Director may
23 adjust the items that are included in or ex-
24 cluded from the definition of mortgage data

1 consistent with this Act, as appropriate to pro-
2 tect the privacy of individual consumers.

3 (F) PRIVACY.—The regulations required
4 by subparagraph (A) may require rounding off
5 of the debt to income ratios required to be in-
6 cluded as mortgage data to protect the privacy
7 of the borrower, taking into consideration the
8 information that is already available on the
9 Internet or in other ways.

10 **SEC. 3. GSE WINDDOWN.**

11 (a) FANNIE MAE.—Section 304 of the National
12 Housing Act (12 U.S.C. 1719) is amended by adding at
13 the end the following:

14 “(h) WINDDOWN OF ENTERPRISES.—

15 “(1) ANNUAL GUARANTEE REDUCTIONS.—Not
16 later than 180 days after the date of enactment of
17 the Mortgage Market Privatization and Standardiza-
18 tion Act of 2011, and annually thereafter, the Direc-
19 tor shall begin reducing the percentage of the value
20 of a trust certificate or other security that may be
21 guaranteed by the corporation by not less than 10
22 percent per year.

23 “(2) STRUCTURE.—The percentage of the bond
24 guaranteed by the corporation can be structured on
25 either a pro-rata or senior-subordinated basis, as de-

1 terminated by the Director. The Director shall pursue
2 a strategy that allows for market signals to assist
3 Congress and the Director to monitor and assess the
4 price that private market participants are assigning
5 to mortgage credit risk.”.

6 (b) FREDDIE MAC.—Section 305 of the Federal
7 Home Loan Mortgage Corporation Act (12 U.S.C. 1454)
8 is amended by adding at the end the following:

9 “(d) WINDDOWN OF ENTERPRISES.—

10 “(1) ANNUAL GUARANTEE REDUCTIONS.—Not
11 later than 180 days after the date of enactment of
12 the Mortgage Market Privatization and Standardiza-
13 tion Act of 2011, and annually thereafter, the Direc-
14 tor shall begin reducing the percentage of the value
15 of a trust certificate or other security that may be
16 guaranteed by the corporation by not less than 10
17 percent per year.

18 “(2) STRUCTURE.—The percentage of the bond
19 guaranteed by the corporation can be structured on
20 either a pro-rata or senior-subordinated basis, as de-
21 termined by the Director. The Director shall pursue
22 a strategy that allows for market signals to assist
23 Congress and the Director to monitor and assess the
24 price that private market participants are assigning
25 to mortgage credit risk.”.

1 **SEC. 4. RESIDENTIAL MORTGAGE MARKET TRANS-**
2 **PARENCY.**

3 (a) **IN GENERAL.**—Mortgage data relating to all cov-
4 ered mortgage loans shall be put into the public domain
5 in accordance with this section.

6 (b) **AGENCY ACTION.**—Each agency named in section
7 2(1)(B) shall, not later than 1 year after the date of enact-
8 ment of this Act, require, by regulation, that all entities
9 regulated by such agency shall put mortgage data relating
10 to covered mortgage loans into the public domain, in ac-
11 cordance with this Act and the regulations issued under
12 this Act. Such regulations shall require that the data be
13 reasonably accurate and complete.

14 (c) **MANNER AND FORM OF DATA.**—Not later than
15 1 year after the date of enactment of this Act, the Director
16 shall, by regulation—

17 (1) establish the manner and form by which all
18 mortgage data required to be put into the public do-
19 main by this section shall be put into the public do-
20 main; and

21 (2) require that such mortgage data be made
22 available in a uniform manner, in a form designed
23 for uniformity of data definitions and forms, ease
24 and speed of access, ease and speed of downloading,
25 and ease and speed of use.

1 (d) UPDATE.—All entities required to put mortgage
2 data into the public domain under this Act shall continu-
3 ously update the mortgage data, not less frequently than
4 monthly, as long as the entities exist, whether in con-
5 servatorship, receivership, or otherwise. All updates shall
6 be reasonably accurate and complete.

7 (e) RESPONSIBILITY OF REGULATED ENTITIES.—
8 The mortgage data required to be put into the public do-
9 main in accordance with this Act shall include all mort-
10 gage data related to all covered mortgage loans, to the
11 extent practicable.

12 (f) DUPLICATION OF EFFORT.—If 2 or more entities
13 are required by this Act to report the same mortgage data
14 relating to the same mortgage loan, they may, by agree-
15 ment, determine that only 1 of such entities will report
16 the data. If 1 of such entities reports the required mort-
17 gage data, it shall not be a violation of this section for
18 the other entities not to report the data.

19 (g) DATE OF ACCESS TO DATA.—The Director shall
20 establish, and cause to be published in the Federal Reg-
21 ister, the initial date on which—

22 (1) the public shall begin to have access to any
23 data put into the public domain in accordance with
24 this Act; and

1 TBA market, taking into consideration under-
2 writing and product features that historical
3 loan performance data indicate result in a lower
4 risk of default, such as—

5 “(i) documentation and verification of
6 the financial resources relied upon to qual-
7 ify the mortgagor;

8 “(ii) standards with respect to—

9 “(I) the residual income of the
10 mortgagor after all monthly obliga-
11 tions;

12 “(II) the ratio of the housing
13 payments of the mortgagor to the
14 monthly income of the mortgagor; and

15 “(III) the ratio of total monthly
16 installment payments of the mort-
17 gagor to the income of the mortgagor;

18 “(iii) mitigating the potential for pay-
19 ment shock on adjustable rate mortgages
20 through product features and underwriting
21 standards;

22 “(iv) mortgage guarantee insurance or
23 other types of insurance or credit enhance-
24 ment obtained at the time of origination,

1 to the extent such insurance or credit en-
2 hancement reduces the risk of default; and

3 “(v) prohibiting or restricting the use
4 of balloon payments, negative amortization,
5 prepayment penalties, interest-only pay-
6 ments, and other features that have been
7 demonstrated to exhibit a higher risk of
8 borrower default.

9 “(B) LIMITATION ON DEFINITION.—The
10 Director, in defining the term ‘deliverable resi-
11 dential mortgage’, as required by subparagraph
12 (B), shall define that term to be no broader
13 than the definition of the term ‘qualified mort-
14 gage’, as provided under section 129C(e)(2) of
15 the Truth in Lending Act and regulations
16 adopted thereunder.

17 “(2) PARTICIPANT IN THE TBA MARKET.—The
18 term ‘participant in the TBA market’ means a pri-
19 vate investor in or dealer of mortgage-backed securi-
20 ties, particularly mortgage-backed securities issued
21 by the enterprises, that routinely enters into forward
22 contracts for the sale of mortgage-backed securities
23 that do not specify the particular mortgage-backed
24 securities that will be delivered to the buyer.

1 “(3) PROGRAM.—The term ‘program’ means
2 the program established under subsection (b).

3 “(4) DRM FUTURES MARKET.—The term
4 ‘DRM futures market’ means a market for forward
5 contracts for the sale of mortgage-backed securities
6 collateralized exclusively by deliverable residential
7 mortgages.

8 “(5) TBA MARKET.—The term ‘TBA market’
9 means the market for forward contracts for the sale
10 of mortgage-backed securities that do not specify the
11 particular mortgage-backed securities that will be
12 delivered to the buyer.

13 “(b) PROGRAM ESTABLISHED.—The Director, in
14 consultation with participants in the TBA market, shall
15 establish a program to encourage the development of a
16 DRM futures market that—

17 “(1) compliments the TBA market;

18 “(2) creates incentives for trading by partici-
19 pants in the TBA market; and

20 “(3) has the potential to replace the TBA mar-
21 ket.

22 “(c) TECHNOLOGY AND INFRASTRUCTURE.—The Di-
23 rector shall consult with participants in the TBA market
24 to develop the technology and infrastructure necessary to
25 carry out the program established under this section.

1 “(d) ANNUAL REPORT.—The Director shall submit
2 to Congress an annual report on the program established
3 under this section.”.

4 (b) SECURITIES LAWS EXEMPTIONS.—

5 (1) SECURITIES ACT OF 1933.—Section 3(a) of
6 the Securities Act of 1933 (15 U.S.C. 77e(a)) is
7 amended by adding at the end the following:

8 “(14) Any mortgage-backed security
9 collateralized exclusively by deliverable residential
10 mortgages, as such term is defined under section
11 1327 of the Federal Housing Enterprises Financial
12 Safety and Soundness Act of 1992.”.

13 (2) SECURITIES EXCHANGE ACT OF 1934.—Sec-
14 tion 3(a)(12)(A) of the Securities Exchange Act of
15 1934 (15 U.S.C. 78c(a)(12)(A)) is amended—

16 (A) by redesignating clauses (vi) and (vii)
17 as clauses (vii) and (viii), respectively; and

18 (B) by inserting after clause (v) the fol-
19 lowing:

20 “(vi) any mortgage-backed security
21 collateralized exclusively by deliverable res-
22 idential mortgages, as such term is defined
23 under section 1327 of the Federal Housing
24 Enterprises Financial Safety and Sound-
25 ness Act of 1992;”.

1 **SEC. 6. MONETIZATION OF BUSINESS VALUE.**

2 Pursuant to the authority of the Director as conser-
3 vator of the enterprises under section 1367 of the Federal
4 Housing Enterprises Financial Safety and Soundness Act
5 of 1992 (12 U.S.C. 4617), the Director shall—

6 (1) identify any property of the enterprises that
7 would be of value to nongovernmental entities, in-
8 cluding—

9 (A) historical databases containing infor-
10 mation on prepayment, delinquency, and default
11 rates;

12 (B) proprietary home price indices;

13 (C) technology used in the securitization of
14 mortgages; and

15 (D) patents relating to the securitization of
16 mortgages, automated underwriting systems,
17 and other processes; and

18 (2) sell any property identified under paragraph
19 (1) to nongovernmental entities.

20 **SEC. 7. UNIFORM UNDERWRITING STANDARDS.**

21 (a) **STANDARDS ESTABLISHED.**—Notwithstanding
22 any other provision of this Act or any other provision of
23 Federal, State, or local law, the Federal banking agencies
24 (as that term is defined in section 3 of the Federal Deposit
25 Insurance Act (12 U.S.C. 1813)), in consultation with the
26 FHFA and the Secretary of Housing and Urban Develop-

1 ment, shall jointly establish specific minimum standards
2 for mortgage underwriting, including—

3 (1) a requirement that the mortgagee verify
4 and document the income and assets relied upon to
5 qualify the mortgagor on the residential mortgage,
6 including the previous employment and credit his-
7 tory of the mortgagor; and

8 (2) a down payment requirement that—

9 (A) is equal to not less than 5 percent of
10 the purchase price of the property securing the
11 residential mortgage;

12 (B) in the case of a first lien residential
13 mortgage loan with an initial loan to value ratio
14 that is more than 80 percent and not more
15 than 95 percent, includes a requirement for
16 credit enhancements, as defined by the Federal
17 banking agencies, until the loan to value ratio
18 of the residential mortgage loan amortizes to a
19 value that is less than 80 percent of the pur-
20 chase price;

21 (C) uses a method for determining the
22 ability of the mortgagor to repay the residential
23 mortgage that is based on factors including—

24 (i) all terms of the residential mort-
25 gage, including principal payments that

1 fully amortize the balance of the residential
2 mortgage over the term of the residential
3 mortgage; and

4 (ii) the debt to income ratio of the
5 mortgagor; and

6 (D) any other specific standards that the
7 Federal banking agencies jointly determine are
8 appropriate to ensure prudent underwriting of
9 residential mortgages.

10 (b) UPDATES TO STANDARDS.—The Federal banking
11 agencies, in consultation with the FHFA and the Sec-
12 retary of Housing and Urban Development—

13 (1) shall review the standards established under
14 this section not less frequently than every 5 years;
15 and

16 (2) based on the review under paragraph (1),
17 may revise the standards established under this sec-
18 tion, as the Federal banking agencies, in consulta-
19 tion with the FHFA and the Secretary of Housing
20 and Urban Development, determine to be necessary.

21 (c) COMPLIANCE.—It shall be a violation of Federal
22 law—

23 (1) for any mortgage loan originator to fail to
24 comply with the minimum standards for mortgage

1 underwriting established under subsection (a) in
2 originating a residential mortgage loan;

3 (2) for any company to maintain an extension
4 of credit on a revolving basis to any person to fund
5 a residential mortgage loan, unless the company rea-
6 sonably determines that the residential mortgage
7 loan funded by such credit was subject to under-
8 writing standards no less stringent than the min-
9 imum standards for mortgage underwriting estab-
10 lished under subsection (a); or

11 (3) for any company to purchase, fund by as-
12 signment, or guarantee a residential mortgage loan,
13 unless the company reasonably determines that the
14 residential mortgage loan was subject to under-
15 writing standards no less stringent than the min-
16 imum standards for mortgage underwriting estab-
17 lished under subsection (a).

18 (d) IMPLEMENTATION.—

19 (1) REGULATIONS REQUIRED.—The Federal
20 banking agencies, in consultation with the FHFA,
21 shall issue regulations to implement subsections (a)
22 and (c), which shall take effect not later than 270
23 days after the date of enactment of this Act.

24 (2) REPORT REQUIRED.—If the Federal bank-
25 ing agencies have not issued final regulations under

1 subsections (a) and (c) before the date that is 270
2 days after the date of enactment of this Act, the
3 Federal banking agencies shall jointly submit to the
4 Committee on Banking, Housing, and Urban Affairs
5 of the Senate and the Committee on Financial Serv-
6 ices of the House of Representatives a report that—

7 (A) explains why final regulations have not
8 been issued under subsections (a) and (c); and

9 (B) provides a timeline for the issuance of
10 final regulations under subsections (a) and (c).

11 (e) ENFORCEMENT.—Compliance with the rules
12 issued under this section shall be enforced by—

13 (1) the primary financial regulatory agency as
14 that term is defined under section 2 of the Dodd-
15 Frank Wall Street Reform and Consumer Protection
16 Act (12 U.S.C. 5301) of an entity, with respect to
17 an entity subject to the jurisdiction of a primary fi-
18 nancial regulatory agency, in accordance with the
19 statutes governing the jurisdiction of the primary fi-
20 nancial regulatory agency over the entity, and as if
21 the action of the primary financial regulatory agency
22 were taken under such statutes; and

23 (2) the Bureau of Consumer Financial Protec-
24 tion, with respect to a company that is not subject

1 to the jurisdiction of a primary financial regulatory
2 agency.

3 (f) EXEMPTIONS FOR CERTAIN NONPROFIT MORT-
4 GAGE LOAN ORIGINATORS.—

5 (1) IN GENERAL.—Not later than 180 days
6 after the date of enactment of this Act, the Federal
7 banking agencies, in consultation with the Secretary
8 of Housing and Urban Development and the Sec-
9 retary of the Treasury, may jointly issue rules to ex-
10 empt from the requirements under subsection (a)(2),
11 mortgage loan originators that are exempt from tax-
12 ation under section 501(c)(3) of the Internal Rev-
13 enue Code of 1986.

14 (2) DETERMINING FACTORS.—The Federal
15 banking agencies shall ensure that—

16 (A) the lending activities of a mortgage
17 loan originator that receives an exemption
18 under this subsection do not threaten the safety
19 and soundness of the banking system of the
20 United States; and

21 (B) a mortgage loan originator that re-
22 ceives an exemption under this subsection—

23 (i) is not compensated based on the
24 number or value of residential mortgage

1 loan applications accepted, offered, or ne-
2 gotiated by the mortgage loan originator;

3 (ii) does not offer residential mort-
4 gage loans that have an interest rate
5 greater than zero percent;

6 (iii) does not gain a monetary profit
7 from any residential mortgage product or
8 service provided;

9 (iv) has the primary purpose of serv-
10 ing low income housing needs;

11 (v) has not been specifically prohib-
12 ited, by statute, from receiving Federal
13 funding; and

14 (vi) meets any other requirements
15 that the Federal banking agencies jointly
16 determine are appropriate for ensuring
17 that a mortgage loan originator that re-
18 ceives an exemption under this subsection
19 does not threaten the safety and soundness
20 of the banking system of the United
21 States.

22 (3) REPORTS REQUIRED.—Before the issuance
23 of final rules under subsection (a), and annually
24 thereafter, the Federal banking agencies shall jointly
25 submit to the Committee on Banking, Housing, and

1 Urban Affairs of the Senate and the Committee on
2 Financial Services of the House of Representatives
3 a report that—

4 (A) identifies the mortgage loan origina-
5 tors that receive an exemption under this sub-
6 section; and

7 (B) for each mortgage loan originator
8 identified under subparagraph (A), explains the
9 rationale for providing an exemption.

10 (4) UPDATES TO EXEMPTIONS.—The Federal
11 banking agencies, in consultation with the Secretary
12 of Housing and Urban Development and the Sec-
13 retary of the Treasury—

14 (A) shall review the exemptions established
15 under this subsection, not less frequently than
16 every 2 years; and

17 (B) based on the review under subpara-
18 graph (A), may revise the standards established
19 under this subsection, as the Federal banking
20 agencies, in consultation with the Secretary of
21 Housing and Urban Development and the Sec-
22 retary of the Treasury, determine to be nec-
23 essary.

24 (g) RULES OF CONSTRUCTION.—Nothing in this sec-
25 tion may be construed to permit—

1 (1) the enterprises to make or guarantee a resi-
2 dential mortgage loan that does not meet the min-
3 imum underwriting standards established under this
4 section; or

5 (2) the Federal banking agencies to issue an ex-
6 emption under subsection (f) that is not on a case-
7 by-case basis.

8 (h) DEFINITIONS.—In this section, the following defi-
9 nitions shall apply:

10 (1) COMPANY.—The term “company”—

11 (A) has the same meaning as in section
12 2(b) of the Bank Holding Company Act of
13 1956 (12 U.S.C. 1841(b)); and

14 (B) includes a sole proprietorship.

15 (2) MORTGAGE LOAN ORIGINATOR.—The term
16 “mortgage loan originator” means any company that
17 takes residential mortgage loan applications and of-
18 fers or negotiates terms of residential mortgage
19 loans.

20 (3) RESIDENTIAL MORTGAGE LOAN.—The term
21 “residential mortgage loan”—

22 (A) means any extension of credit pri-
23 marily for personal, family, or household use
24 that is secured by a mortgage, deed of trust, or
25 other equivalent security interest in a dwelling

1 or residential real estate upon which is con-
2 structed or intended to be constructed a dwell-
3 ing; and

4 (B) does not include a mortgage loan for
5 which mortgage insurance is provided by the
6 Department of Veterans Affairs or the Rural
7 Housing Administration.

8 (4) EXTENSION OF CREDIT; DWELLING.—The
9 terms “extension of credit” and “dwelling” have the
10 same meanings as in section 103 of the Truth in
11 Lending Act (15 U.S.C. 1602).

12 (i) REPEAL OF CREDIT RISK RETENTION AND QRM
13 RULES.—Section 15G of the Securities Exchange Act of
14 1934 (15 U.S.C. 78o–11) is repealed, and any rule or reg-
15 ulation promulgated under that section shall have no force
16 or effect, effective on the date of enactment of this Act.

17 **SEC. 8. RESIDENTIAL MORTGAGE SERVICING STANDARDS.**

18 (a) UNIFORM PSA.—

19 (1) DEVELOPMENT.—

20 (A) IN GENERAL.—The Director, in con-
21 sultation with the Secretary of the Treasury
22 and the Board of Governors of the Federal Re-
23 serve System, shall, not later than 1 year after
24 the date of enactment of this Act, develop a
25 uniform pooling and servicing agreement (in

1 this section referred to as a “uniform PSA”).
2 The Director shall work with industry groups,
3 including servicers, originators, and mortgage
4 investors to develop the uniform PSA.

5 (B) CRITERIA.—The uniform PSA shall—

6 (i) address all issues relating to the
7 pool trustee, and shall be based on pooling
8 and servicing agreements in use by the en-
9 terprises on the date of enactment of this
10 Act; and

11 (ii) create uniform loss mitigation
12 standards, including standards for a single
13 point of contact for troubled borrowers, an
14 industry wide net-present-value model for
15 determining when to conduct a loan modi-
16 fication rather than foreclosure, and na-
17 tional standards for the foreclosure proc-
18 ess.

19 (2) EFFECT OF UNIFORM PSA.—Beginning 1
20 year after the date of enactment of this Act, all
21 mortgage backed securities issued by national or
22 State chartered banks in the United States will be
23 affected in accordance with the uniform PSA.

24 (b) MERS2.—The Director shall establish, by rule,
25 a Mortgage Electronic Registration System (in this section

1 referred to as “MERS2”) based on the Mortgage Elec-
2 tronic Registration System in use on the date of enact-
3 ment of this Act. MERS2 shall incorporate a single na-
4 tional database for all mortgage title transfers, to be main-
5 tained and operated by FHFA. The rules of the Director
6 shall ensure that property title is transferred in accord-
7 ance with all applicable provisions of law. All mortgage
8 transfers shall take place according to national standards
9 and shall be recorded in the MERS2 system.

10 (c) UNIFORM REGULATORY PRACTICES.—The Comp-
11 troller of the Currency, Chairperson of the Federal De-
12 posit Insurance Corporation, Director, Chairman of the
13 Board of Governors of the Federal Reserve System, and
14 Director of the Bureau of Consumer Financial Protection
15 shall, jointly, under the direction of the Director, develop
16 uniform regulatory practices for the mortgage market.

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