LEGISLATIVE PROPOSALS TO REFORM THE GSEs

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Two bills have emerged as dueling proposals to reform the GSEs: the Housing Finance Reform and Taxpayer Reform Act (the "Corker-Warner Bill") in the Senate, and the Protecting American Taxpayers and Homeowners Act of 2013 ("PATH Act") in the House. The key thrust of both bills is to protect taxpayers from absorbing losses in the secondary mortgage market. Although the bills remain in committee as they gain traction in both chambers, any final legislation will likely have features of each proposal. A high-level summary of the bills follows.

The Corker-Warner Bill

Federal Mortgage Insurance Corporation ("FMIC"): Modeled after the FDIC, this agency would replace the GSEs within 5 years. The FMIC would provide a catastrophic guarantee to investors through the mortgage insurance fund it would administer.

Investors Take First-Loss Position: Investors would be required to assume the first-loss position, which would be at least 10% of the value of the securities.

Mortgage insurance fund: A fund would be established by the FMIC to absorb losses after the first-loss position is paid by investors. The FMIC would insure the payment of principal and interest on securities. Coverage would be funded by insurance and guarantee fees, as well as amounts earned on investments.

Common securitization platform: The FMIC would establish a common securitization platform for issuing, trading and tracking mortgage-backed securities. The FMIC would also establish a separate company, FMIC Securitization Company, to develop, securitize, sell and otherwise meet the issuing needs of credit unions, community and mid-size banks, and non-depository mortgage originators, and to purchase from member participants for cash, on a single loan basis, loans to be securitized.

Uniform mortgage database: A database would be established to facilitate collecting, using and disseminating uniform loan-level information, including loan characteristics, borrower and property information, and data on the accuracy of appraisals.

Electronic registration of loans: An electronic loan registry would be created to automate, centralize, standardize and improve the process of tracking changes in loan and servicing rights ownership.

Repeal of Affordable Housing Goals: Annual GSE goals for loans to low-income families would be eliminated. This initiative would be replaced by a 5-10 basis point charge assessed on securitized loan balances, which would be given to HUD to help fund its low-income programs.

The PATH Act

National Mortgage Market Utility ("NMMU"): The GSEs would be wound-down over a 5-year period and replaced by this entity. The NMMU would establish and operate a common securitization platform and a national repository for loan-level data.

Reduction in Portfolios: During the wind-down, the GSEs would reduce their portfolio of mortgage-backed securities by 15% every year until the size of the portfolio reaches $250 billion.

Qualified Mortgage Rules: The GSEs would be limited to purchasing or guaranteeing "qualified mortgages" as defined by the Dodd-Frank Act.

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Risk-sharing: The GSEs would implement a risk-sharing program (*e.g.*, increased mortgage insurance requirements, credit-linked notes and securities) of at least 10% of their annual business under which private market participants would share or assume the credit risk associated with securities.

FHA: The FHA would be spun off into a new independent agency. Once separated, the FHA would be required to ensure that at least 10% of any new business is insured pursuant to risk-sharing arrangements. The FHA would also be required to reduce its guarantee on individual loans by 10% annually until it reaches 50% of the original loan amount. Finally, the FHA would be given authority to establish and collect premiums, which must be at least 55 basis points of the loan balance and a sufficient premium to cover the costs of providing insurance and maintaining capital ratio requirements.

Repeal of Affordable Housing Goals: Similar to the Corker-Warner Bill, the annual low-income loan purchase goals would be eliminated.

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