[DISCUSSION DRAFT]

115TH CONGRESS
2D SESSION

H. R. ______

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. ______ introduced the following bill; which was referred to the Committee on ______________________

A BILL

To protect American taxpayers and homeowners by creating a sustainable housing finance system for the 21st century, and for other purposes.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

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SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

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(a) Short Title.—This Act may be cited as the “Bipartisan Housing Finance Reform Act of 2018”.

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(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Purposes.

TITLE I—STRENGTHENING THE SECONDARY MORTGAGE MARKET AND IMPROVING BORROWER ACCESS TO CONVENTIONAL HOME LOANS

Sec. 101. Establishment of Ginnie Mae Plus.
Sec. 102. Authority to guarantee MBS protected with private capital.
Sec. 103. Ginnie Mae standards for issuers.
Sec. 104. Approved private credit enhancement.
Sec. 105. Standards for private credit enhancers.
Sec. 106. Ownership and management of private credit enhancers.
Sec. 107. Bright-line distinction.
Sec. 108. FHFA oversight and duties.
Sec. 109. Prudential management.
Sec. 110. Capital requirements.
Sec. 111. Private Capital Reserves.
Sec. 112. Portfolios.
Sec. 113. Conflicts of interest.
Sec. 114. FHFA coordination with GNMA.
Sec. 115. Resolution.
Sec. 116. Small lender access program.
Sec. 117. Lender access to cash window through Federal Home Loan Banks.
Sec. 118. Regulatory implementation of credit risk-sharing market.
Sec. 119. Definitions.

TITLE II—DEVELOPMENT AND DEPLOYMENT OF A MORTGAGE SECURITY MARKET EXCHANGE AND DATA REPOSITORY

Sec. 201. Purposes.

Subtitle A—Establishment and Authority of the Exchange

Sec. 211. Establishment.
Sec. 212. General powers; authorized and prohibited activities.
Sec. 213. Mission and structure of Common Securitization Solutions.
Sec. 214. Transition period.
Sec. 215. Transfer date.
Sec. 216. Repayment of cost.
Sec. 217. Regulation, supervision, and enforcement.

Subtitle B—Standards for Qualified Securities

Sec. 221. Qualified securities.
Sec. 222. Standards for qualified securities.

Subtitle C—National Mortgage Data Repository

Sec. 231. Organization and operation.
Sec. 232. Legal effect of registration with Repository.
Sec. 233. Grants to States; repayment.
Sec. 234. Judicial review.
Sec. 235. Transition provisions.

TITLE III.—AFFORDABLE ACCESS AND MARKET MODERNIZATION REFORMS
Sec. 301. Affordability principles.
Sec. 302. Multifamily principles.
Sec. 303. Modernization principles.

TITLE IV—ENTERPRISE TRANSITION

Sec. 401. Definitions.

Subtitle A—Transition and Conversion

Sec. 411. Repeal of charters.
Sec. 412. Termination of current conservatorships; mandatory receiverships.
Sec. 413. Receiver’s discretionary authority to create receivership entity.
Sec. 414. Effect of repeal of enterprise charter.
Sec. 415. Wind-down and transition.

Subtitle B—Limitations on Authority During Conservatorships

Sec. 421. Limitations on enterprise authority.
Sec. 422. Mandatory risk-sharing.

TITLE V—REGULATORY STRUCTURE

Subtitle A—FHFA

Sec. 501. Board of Directors of Federal Housing Finance Agency.

Subtitle B—Ginnie Mae

Sec. 511. Removal from HUD; establishment as independent entity.
Sec. 512. Optional use of securitization Platform.

Subtitle C—Housing Market Reforms

Sec. 522. Notice of junior mortgage or lien.
Sec. 523. Limitation on mortgages held by loan servicers.
Sec. 524. GNMA prohibition relating to use of power of eminent domain.

TITLE VI—MISCELLANEOUS AND CONFORMING AMENDMENTS

Sec. 601. Conforming amendment to limitation on Ginnie Mae commitment authority for Government-insured mortgage securities.
Sec. 602. Conforming amendments to Securities Act of 1933.
Sec. 603. Conforming amendments to title 18, United States Code.
Sec. 604. Conforming amendment to the Investment Company Act of 1940.
Sec. 605. Fair lending laws.

1 SEC. 2. PURPOSES.

2 The purposes of this Act are—

3 (1) to preserve the liquidity of long-term traditional mortgage products, such as the 30-year fixed
rate loan, and improve borrower access to conventional home loans;

(2) to create more opportunities for smaller lenders to serve the housing needs of their communities;

(3) to provide lenders and investors for the first time a mortgage security market exchange and data repository to foster liquidity in the private-label securities market;

(4) to place the successor entities of Fannie Mae and Freddie Mac on a sustainable path going forward while ensuring no future market participant needs taxpayer support;

(5) to create more choices for consumers and foster a competitive secondary mortgage market;

(6) to promote access to affordable mortgage credit and affordable housing across the United States, including to underserved borrowers;

(7) to ensure that mortgage lenders of all sizes, charter types, and locations have equitable access to the secondary mortgage market; and

(8) to provide for a gradual and smooth transition to the housing finance system contemplated by this Act.
TITLE I—STRENGTHENING THE SECONDARY MORTGAGE MARKET AND IMPROVING BORROWER ACCESS TO CONVENTIONAL HOME LOANS

SEC. 101. ESTABLISHMENT OF GINNIE MAE PLUS.

(a) Establishment.—The Government National Mortgage Association (Ginnie Mae) shall establish a program under this title to be known as Ginnie Mae Plus that shall preserve the liquidity of long-term traditional mortgage products, such as the 30-year fixed rate loan, and improve borrower access to conventional home loans.

(b) Requirements.—Under Ginnie Mae Plus—

(1) Ginnie Mae shall guarantee payment of securities that are backed by eligible conventional mortgages and protected with private capital; and

(2) the issuers of such securities shall be responsible for securing private loan-level credit insurance from approved private credit enhancers.

SEC. 102. AUTHORITY TO GUARANTEE MBS PROTECTED WITH PRIVATE CAPITAL.

(a) Authority.—Subsection (g) of section 306 of the National Housing Act (12 U.S.C. 1721(g)) is amended—
(1) by inserting “(A) AUTHORITY TO GUARANTEE SECURITIES.—” after “(g)(1)”; and

(2) in the first sentence of paragraph (1)—

(A) by inserting “(I)” before “insured under the National Housing Act”;

(B) by inserting before the period at the end the following: “, or (II) eligible conventional mortgages as such term is defined in paragraph (4)”.

(b) DEFINITIONS.—Subsection (g) of section 306 of the National Housing Act (12 U.S.C. 1721(g)), is amended by adding at the end the following new paragraph:

“(4) DEFINITIONS.—For purposes of this section, the following definitions shall apply:

“(A) CONVENTIONAL MORTGAGE.—

“(i) IN GENERAL.—The term ‘conventional mortgage’ means a mortgage that—

“(I) is a qualified mortgage, as such term is defined under section 129C(b)(2) of the Truth in Lending Act (15 U.S.C. 1639c(b)(2));

“(II) has a term to maturity of not more than 30 years;

“(III) fully amortizes over such term to maturity;
“(IV) has an original principal obligation that does not exceed—

“(aa) 95 percent of the appraised value of the property that is subject to the mortgage; and

“(bb) the applicable dollar amount limitation determined under the 6th sentence of paragraph (2) of section 302(b) of the National Housing Act (12 U.S.C. 1717(b)(2)) or under the last 2 sentences of such paragraph;

“(V) in the case of mortgage having a principal obligation in an amount equal to or exceeding 85 percent of such appraised value, is covered by private mortgage insurance or another credit risk transfer mechanism (as such term as defined in section 119 of the Bipartisan Housing Finance Reform Act of 2018) in the amount required by the Director of the Federal Housing Finance Agency;

“(VI) is made for—
“(aa) the purchase of a property that is the principal residence of the mortgagor; or

“(bb) prepaying or paying off an existing loan secured by the principal residence of the mortgagor; and

“(VII) has an outstanding principal balance, at the time of the guarantee of the eligible conventional mortgage security, that is not more than 85 percent of the value of the property securing the loan.

“(ii) EXCLUSIONS.—Such term does not include—

“(I) a mortgage that is a Government-insured mortgage;

“(II) a mortgage described in clause (i)(V)(bb)—

“(aa) under which a portion of the proceeds of the mortgage are used to prepay or pay off the outstanding principal and interest owed on an existing mortgage and a portion of such proceeds are made available to or on behalf of the borrower; and
“(bb) that has an original principal obligation that exceeds 80 percent of the appraised value of the property that is subject to the mortgage; or

“(III) a mortgage under which the mortgagor, or the spouse of the mortgagor, is the mortgagor under 3 or more other outstanding mortgages that are government-insured mortgages or eligible conventional mortgages.

“(B) ELIGIBLE CONVENTIONAL MORTGAGE.—The term ‘eligible conventional mortgage’ means a conventional mortgage for which approved private credit enhancement, as such term is defined in section 119 of the Bipartisan Housing Finance Reform Act of 2018, is provided.

“(C) ELIGIBLE CONVENTIONAL MORTGAGE SECURITY.—The term ‘eligible conventional mortgage security’ means a security that is based on or backed by a trust or pool of eligible conventional mortgages.

“(D) GOVERNMENT-INSURED MORTGAGE.—The term ‘Government-insured mortgage’ means a mortgage described in clause (ii)(I) of the first sentence of paragraph (1) of this subsection.”.
SEC. 103. GINNIE MAE STANDARDS FOR ISSUERS.

(a) ISSUANCE.—Not later than the expiration of the 24-month period beginning on the date of the enactment of this Act, the Government National Mortgage Association shall issue such regulations, standards, and guidelines as may be necessary to provide for—

(1) standards and procedures for approval under section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)) of issuers of eligible conventional mortgage securities (as such term is defined in such section 306(g)(4) of such Act, as added by the amendment made by section 102(b) of this Act) for purposes of eligibility for guaranty under such section 306(g) of the payment of principal of and interest on such securities; and

(2) fees to be charged to issuers of such securities for guaranties of such securities made under such section 306(g).

(b) PROHIBITION ON PRICE DISCRIMINATION.—The Government National Mortgage Association may not discriminate on the amount of fees charged to issuers of securities based on the size or mortgage production volume of an issuer.

SEC. 104. APPROVED PRIVATE CREDIT ENHANCEMENT.

The Director of the Federal Housing Finance Agency shall develop, adopt, and publish standards and proce-
Sec. 105. Standards for Private Credit Enhancers.

(a) In General.—The Director of the Federal Housing Finance Agency shall develop, adopt, and publish standards under this title for the approval of private credit enhancers to provide approved private credit enhancement for conventional mortgages in connection with the guarantee by the Government National Mortgage Association under section 306(g) of the National Housing Act (12 U.S.C. 1721(g)) of securities based on or backed by such mortgages, and procedures for obtaining such approval.

(b) Prohibition on Price Discrimination.—The standards adopted under this title shall ensure that private credit enhancers do not discriminate on the price paid for the credit enhancement for an eligible conventional mortgage based on the size or loan production volume of the lender or issuer purchasing the credit enhancement.

(c) Application; Suspension; Revocation; Appeal; Reapproval.—The standards and procedures established under this title with respect to approved private credit enhancement requests under this title.
credit enhancers, approved private credit enhancement, and approved credit risk transfer mechanisms shall in-
clude standards and procedures for—

(1) application for such approval;
(2) suspension of such approval;
(3) revocation of such approval;
(4) appeal of suspension or revocation of such approval; and
(5) re-approval.

SEC. 106. OWNERSHIP AND MANAGEMENT OF PRIVATE CREDIT ENHANCERS.

(a) Structure and Ownership.—The standards required under section 105 shall include standards under this section regarding the establishment, structure, and ownership of an approved private credit enhancer. An approved private credit enhancer shall have such ownership structure as the Director may, by regulation, provide, which may include a corporation, mutual association, partnership, limited liability corporation, cooperative, mutual company, or any other organizational form that the Director considers appropriate.

(b) Management Experience and Fitness.—The members of the management of an approved private credit enhancer shall meet such standards for experience and for
general character and fitness, including compliance with
Federal and State laws, as the Director shall require.

SEC. 107. BRIGHT-LINE DISTINCTION.
Except as provided under sections 116(a), an ap-
proved private credit enhancer or any affiliate of any ap-
proved private credit enhancer may not—
(1) be approved by the Government National
Mortgage Association as an issuer of any securities
based on or backed by residential mortgages, includ-
ing eligible conventional mortgages; or
(2) issue any such securities.

SEC. 108. FHFA OVERSIGHT AND DUTIES.
(a) IN GENERAL.—All approved private credit
enhancers shall, to the extent provided in this title, be sub-
ject to the supervision and regulation of the Director of
the Federal Housing Finance Agency.
(b) AUTHORITY OVER APPROVED PRIVATE CREDIT
ENHANCERS.—The Director shall have general regulatory
authority over each approved private credit enhancer and
shall exercise such general regulatory authority to ensure
that the purposes of this title and any other applicable
laws are carried out.
(e) PRINCIPAL DUTIES.—Among the principal duties
of the Director pursuant to this section shall be—
(1) to oversee the prudential operations of each approved private credit enhancer; and

(2) to ensure that—

(A) each approved private credit enhancer operates in a safe and sound manner, including maintenance of adequate capital and internal controls; and

(B) each approved private credit enhancer complies with this title and the rules, regulations, guidelines, and orders issued under this title.

SEC. 109. PRUDENTIAL MANAGEMENT.

The Director shall establish prudential standards, by regulation or guideline, for approved private credit enhancers to—

(1) ensure—

(A) the safety and soundness of such entities; and

(B) the maintenance of approval standards by such entities; and

(2) minimize the risk presented to the Private Capital Reserves.

SEC. 110. CAPITAL REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish standards under this section regarding solvency and the
adequacy of the amount and structure of the capital of an approved private credit enhancer, which shall include such risk-based capital requirements and leverage restrictions as the Director considers necessary to meet the requirements under subsection (b).

(b) CONSIDERATIONS.—The standards established under this section shall—

(1) be designed to ensure the financial safety and soundness of an approved private credit enhancer; and

(2) shall be comparable to capital requirements applicable to banking, depository, and other financial institutions.

(e) MINIMUM REQUIREMENTS.—In accordance with regulations prescribed by the Director, an approved private credit enhancer shall comply with the following requirements:

(1) CREDIT RISK TRANSFER MECHANISMS.—

(A) IN GENERAL.—Subject to subparagraph (C), an approved private credit enhancer shall maintain eligible credit risk transfer mechanisms that together cause credit risk transfer counterparties to bear a portion of credit risk, as a percentage of the unpaid principal balance of mortgage loans guaranteed by the private
credit enhancer, as determined by the Director, to ensure—

(i) the financial safety and soundness of the private credit enhancer;

(ii) the amount of risk transferred to credit risk transfer counterparties;

(iii) the amount of capital relief as determined under the standards established under subsection (a), established with comparability to the capital relief in place for credit risk transfer mechanisms allowable for a comparable framework for the banking system; and

(iv) the economics of such transactions and their impact on the financial viability of the private credit enhancer.

(B) **Eligible Instruments.**—In developing the approval process for credit risk transfer mechanisms, the Director shall—

(i) consider mechanisms that include credit-linked structures or other instruments that are designed to absorb credit losses on single-family covered securities;
(ii) consider any credit risk transfer mechanisms undertaken by private credit enhancers; and

(iii) ensure that the mechanisms will accommodate the availability of mortgage credit on equal and transparent terms in the secondary mortgage market for small mortgage lenders and lenders from all geographic locations, including rural locations.

(C) EXCEPTION.—The Director may waive or lower the requirement under subparagraph (A), but only if—

(i) the Director considers such waiver or lowering necessary due to adverse market conditions for approved private credit enhancers; and

(ii) the Director makes the determination that the approved private credit enhancer has a sufficient amount of equity capital exceeding the minimum amount required for approved private credit enhancers.

(2) CAPITAL.—An approved private credit enhancer shall maintain an amount of capital, after taking into account any capital relief afforded by the
eligible credit risk-sharing arrangements of the private credit enhancer, sufficient to satisfy—

(A) a leverage restriction requiring equity capital, as a percentage of the aggregate unpaid principal amount of the collateral guaranteed by the private credit enhancer that secures guaranteed mortgage-backed securities, equal to a minimum ratio as determined by the Director and comparable to the capital requirements applicable to banking, depository, and other financial institutions;

(B) a risk-based capital requirement requiring equity capital, as a percent of the aggregate amount of risk-weighted assets (as determined by the Director) guaranteed by the private credit enhancer that secures guaranteed mortgage backed securities, equal to a minimum ratio as determined by the Director and comparable to the capital requirements applicable to banking, depository, and other financial institutions; and

(C) a countercyclical capital buffer requirement.

(d) UNDERCAPITALIZATION.—The standards established under this section shall provide sanctions for failure
to comply with such standards and shall authorize the Dire-
cotor to take the same actions with respect to a private
credit enhancer that is undercapitalized, based on the
same degree of undercapitalization, that are authorized to
be taken under sections 1365, 1366, 1368, and 1369 of
the Federal Housing Enterprises Financial Safety and
Soundness Act of 1992 (12 U.S.C. 4615, 4616, 4618, and
4622) with respect to an enterprise that is undercapital-
ized or significantly undercapitalized.

SEC. 111. PRIVATE CAPITAL RESERVES.

(a) Establishment.—There is established the Pri-
ivate Capital Reserves, which shall be a fund that the Di-
rector shall—

(1) maintain and administer; and

(2) use, without further appropriation, only to
cover losses on eligible conventional mortgages for
which private credit enhancement was provided by a
private credit enhancer that is insolvent.

(b) Deposits.—The Private Capital Reserves shall
be credited with any—

(1) insurance fee amounts required to be depos-
ited in the Reserves under this section;

(2) any amounts as are or may be appropriated,
transferred, or credited to the Reserves under any
other provisions of law; and
(3) amounts earned on investments pursuant to subsection (f).

(c) MINIMUM BALANCE.—

(1) IN GENERAL.—Subject to paragraph (2), the Director shall ensure that the Private Capital Reserves attains and thereafter maintains a balance equal to or exceeding the amount that is equal to 2 percent of the aggregate unpaid principal balance of eligible conventional mortgages for which private credit enhancement is provided by approved private credit enhancers.

(2) SUSPENSION.—The Director may temporarily suspend the requirement under paragraph (1) if the Director determines that market conditions so require. A suspension pursuant to this paragraph shall not affect the requirement under subsection (d) relating to payment of fees for insurance provided by the Private Capital Reserves.

(d) FEES.—

(1) ESTABLISHMENT.—

(A) REQUIREMENT.—Subject to subparagraph (B), for each eligible conventional mortgage for which approved private credit enhancement is provided by an approved private credit enhancer, the Director shall require the ap-
proved private credit enhancer to pay a fee under this subsection for the insurance provided under subsection (a) by the Private Capital Reserves.

(B) EXCEPTION.—At any time that the balance of the Private Capital Reserves complies with the minimum balance requirement under subsection (c), the Director may waive the payment of fees under this subsection in connection with the provision of private credit enhancement, but only if such waiver does not result in such balance failing to comply with such minimum balance requirement.

(2) AMOUNT.—The fee required under paragraph (1) shall be established as a percentage of the original principal obligation of the mortgage, as the Director shall determine, as is necessary to—

(A) achieve and maintain a Private Capital Reserves balance sufficient to ensure that the Director can provide the insurance required by this section and to comply with subsections (a) and (c); and

(B) cover the costs of insurance for the Private Capital Reserves obtained in accordance with subsection (g).
(3) **UNIFORMITY.**—The fee required under paragraph (1)—

(A) shall be set at a uniform amount applicable to all approved private credit enhancers purchasing insurance under this section;

(B) may not vary—

(i) by geographic location; or

(ii) by the size of the institution to which the fee is charged; and

(C) may not be based on the volume of the guarantee business undertaken by an individual approved private credit enhancer.

(4) **ADJUSTMENT.**—

(A) **AUTHORITY.**—The Director may adjust the amount of the fee under this subsection—

(i) annually based on the considerations under paragraph (2);  

(ii) based on whether the Private Capital Reserves has attained the balance required under subsection (c) or not; and  

(iii) at any time before the Private Capital Reserves has attained the balance required under subsection (c), based on market conditions.
(B) REPORTS.—Before any adjustment pursuant to this paragraph takes effect, the Director shall submit to the Congress a report describing the justifications for the adjustment.

(5) DEPOSIT INTO PRIVATE CAPITAL RESERVES.—Any fee amounts collected under this subsection shall be deposited in the Private Capital Reserves.

(e) EXEMPTION FROM APPORTIONMENT.—Notwithstanding any other provision of law, amounts received by the Private Capital Reserves pursuant to any fees collected under this section shall not be subject to apportionment for the purposes of chapter 15 of title 31, United States Code, or under any other authority.

(f) INVESTMENTS.—Amounts in the Private Capital Reserves that are not otherwise employed shall be invested in obligations of the United States.

(g) INSURANCE OF PRIVATE CAPITAL RESERVES.—

(1) IN GENERAL.—The Director shall carry out a risk-sharing program for Private Capital Reserves, as provided in this subsection, to reinsure potential catastrophic losses covered by the Reserves.

(2) REINSURANCE BIDS.—In providing such insurance, the Director shall carry out a reinsurance bid program under which, before each fiscal year (or
such other time period determined by the Director),
the Director shall enter into—

(A) contracts with market participants to
reinsure potential catastrophic losses during
such fiscal year (or other time period) that are
covered by the Private Capital Reserves; and

(B) agreements as necessary to meet the
requirements of paragraph (3).

(3) AMOUNT OF LOSS TRANSFERRED.—

(A) IN GENERAL.—Except as provided
under subparagraph (B), the program under
this subsection shall transfer to the private sec-
tor not less than 10 percent of the risk of all
catastrophic credit loss assumed by the Private
Capital Reserves in the event of a default or in-
solvency of an approved private credit enhaneeer.

(B) EXCEPTION.—The Director may pro-
vide for the Private Capital Reserves to transfer
an amount of catastrophic credit loss risk that
is less than an amount required under subpara-
graph (A) during—

(i) a transition period beginning upon
the establishment of the Reserves and hav-
ing such duration as the Director shall
provide; and
(ii) any period for which the Director determines that such action is necessary based on market conditions.

(4) **Transfer of Loss.**—Risk of catastrophic credit loss assumed by the Reserves and transferred under the program under this section shall be transferred on a pari passu basis.

(5) **Competitive Bidding Process.**—The Agency shall use a competitive bidding process to determine which market participants shall be granted contracts under the program under this subsection.

**SEC. 112. Portfolios.**

(a) **Prohibition on Holding Mortgages.**—Except as provided under this section and the regulations implementing this section, an approved private credit enhancer shall not directly or indirectly purchase, invest in, or otherwise hold any mortgage loans, mortgage-backed securities, or other mortgage assets.

(b) **Warehousing; Pooling.**—Subject to the limitations established pursuant to subsection (d), the Director shall provide that an approved private credit enhancer (including any approved credit enhancer that is established as a successor to an enterprise pursuant to section 415(a)(3)(A) of this Act) that is carrying out a mortgage
purchase program under section 116, may hold eligible conventional mortgages purchased under such program for purposes of warehousing such mortgages to provide for pooling and issuance of securities based on or backed by such mortgages under such program.

(c) Repurchase of Defaulted and Troubled Mortgages.—Subject to the limitations established pursuant to subsection (d), the Director shall provide that an approved private credit enhancer may re-acquire eligible conventional mortgages that are in default or are subject to such loan modifications as allowed under the provision of approved private credit enhancement and hold such mortgages until the entity is able to dispose of the mortgages.

(d) Limitations.—The Director shall establish limitations, based on systemic risk, on the extent of eligible conventional mortgages that may be held pursuant to this section by an approved private credit enhancer at any one time.

Sec. 113. Conflicts of Interest.

The Director shall establish standards, by regulation or guideline, for approved private credit enhancers as the Director considers appropriate to avoid any conflicts of interest.
SEC. 114. FHFA COORDINATION WITH GNMA.

The Director may provide such advice and assistance as the Director considers appropriate to the Association in establishing standards for approval, and approving, issuers of securities based on or backed by eligible conventional mortgages that are guaranteed by the Association pursuant to section 306(g) of the National Housing Act (12 U.S.C. 1721(g)).

SEC. 115. RESOLUTION.

(a) IN GENERAL.—Subject only to subsection (b), section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) but not including subsections (k) and (l) of such section (as amended or added, respectively, by title IV of the Bipartisan Housing Finance Reform Act of 2018) shall apply with respect to an approved private credit enhancer in the same manner and to the same extent that such section applies to a regulated entity or to an enterprise.

(b) FHFA AUTHORITY.—The Director may, by regulation, provide for such exceptions and modifications in the application of such section 1367 to approved private credit enhancers as the Director considers necessary to account for differences between private credit enhancers and the regulated entities and enterprises.
SEC. 116. SMALL LENDER ACCESS PROGRAM.

(a) Authority.—An approved private credit enhancer may—

(1) carry out a mortgage purchase program that allows small lenders to sell for cash eligible conventional mortgages;

(2) issue securities based on or backed by such mortgages purchased; and

(3) to the extent such entity is approved by the Government National Mortgage Association as an issuer of eligible conventional mortgage securities (as such term is defined in section 306(g)(4) of the National Housing Act (12 U.S.C. 1721(g)(4))), obtain guarantees of securities from such Association.

(b) Oversight.—Any mortgage purchase program established pursuant to subsection (a) shall be subject to the oversight and regulation of the Government National Mortgage Association and the Director, who may adopt such supplemental standards as necessary to ensure that each approved private credit enhancer operates in a safe and sound manner and to minimize any risk presented to the Private Capital Reserves under section 111 that may arise from the operation of the mortgage purchase program.

(c) Prohibition on Price Discrimination.—Any supplemental standards adopted pursuant to subsection
(b) shall ensure that approved private credit enhancers do not discriminate on the price paid for an eligible conventional mortgage based on the size or loan production volume of the small lender selling the loan through the mortgage purchase program.

(d) **LIMITATION.**—An approved private credit enhancer may not purchase eligible conventional mortgages under the mortgage purchase program under this section in any year from any single lender having an aggregate original principal obligation in excess of 5 percent of the aggregate original principal obligation of all eligible conventional mortgages purchased by the private credit enhancer in such year under such program.

**SEC. 117. LENDER ACCESS TO CASH WINDOW THROUGH FEDERAL HOME LOAN BANKS.**

The Federal Home Loan Bank Act (12 U.S.C. 1421 et seq.) is amended by inserting after section 3 the following:

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“SEC. 2A. MORTGAGE SECURITIZATION.

“(a) **IN GENERAL.**—A Federal Home Loan Bank may seek approval from the Government National Mortgage Association under section 306(g)(1) of the National Housing Act as an issuer of eligible conventional mortgage securities for purposes of eligibility for guaranty under
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such section 306(g) of the payment of principal of and
interest on such securities.

“(b) Purchase of Eligible Conventional
Mortgages.—In issuing securities described under sub-
section (a), a Bank shall purchase the eligible conventional
mortgages backing such securities from Bank members of
the Federal Home Loan Bank System, regardless of
whether such Bank members are members of the specific
Bank issuing the securities.

“(c) Operation of Cash Window.—A Bank may
purchase eligible conventional mortgages from lenders
through the operation of a cash window for the purchase
of individual eligible conventional mortgages.

“(d) Prohibition on Price Discrimination.—A
Bank may not discriminate on the price paid for an eligi-
ble conventional mortgages based on the size or loan pro-
duction volume of the Bank member selling the loan.

“(e) Prohibition on Assumming Certain Credit
Risk.—

“(1) In General.—The Director shall establish
rules to prohibit a Bank from assuming additional
credit risk related to an individual eligible conven-
tional mortgage after the Government National
Mortgage Association has guaranteed a security
backed by such mortgage.
“(2) EXCEPTION.—Paragraph (1) shall not apply to—

“(A) credit risk to the extent necessary to engage in the business of securitizing guaranteed mortgage-backed securities prior to the implementation of the Ginnie Mae Plus program established pursuant to section 101 of the Bipartisan Housing Finance Reform Act of 2018; or

“(B) counterparty risk involved in the sale of eligible conventional mortgages.

“(f) DEFINITIONS.—For purposes of this section—

“(1) the term ‘Director’ means the Director of the Federal Housing Finance Agency; and

“(2) the terms ‘eligible conventional mortgage’ and ‘eligible conventional mortgage security’ have the meaning given those terms, respectively, under section 306(g)(4) of the National Housing Act.

“(g) EFFECTIVE DATE.—This section shall take effect—

“(1) with respect to the Federal Home Loan Bank of Chicago, on the date that the Director has placed both the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation.
tion into receivership under section 412 of the Bi-
partisan Housing Finance Reform Act of 2018; and
“(2) with respect to all other Federal Home
Loan Banks, on the date that the Director has com-
pleted all reorganizations required under section
415(a)(3) of the Bipartisan Housing Finance Re-
form Act of 2018.”.

SEC. 118. REGULATORY IMPLEMENTATION OF CREDIT
RISK-SHARING MARKET.

(a) Application of Section 3 of the Investment
Company Act of 1940.—For any approved credit
risk transfer mechanism (as defined under section 119),
including a transaction in which credit risk is transferred
on mortgage loans that do not directly back the securities
being issued, the issuer shall be deemed to be a person
primarily engaged in the business of purchasing or other-
wise acquiring mortgages or other liens on and interests
in real estate for purposes of section 3(c)(5) of the Invest-
ment Company Act of 1940 (15 U.S.C. 80a–3(c)(5)).

(b) Federal Income Tax Treatment.—

(1) Real estate mortgage investment
conduits.—For purposes of sections 860A through
860G of the Internal Revenue Code of 1986 (the
“Code”)—
(A) any financial instrument issued by an enterprise (or a legal entity sponsored by an enterprise to implement a credit risk transfer transaction) as part of a credit risk transfer transaction shall be treated as a “qualified mortgage”; and

(B) any amount includible in gross income with respect to such a financial instrument shall be treated as interest on a “qualified mortgage”.

(2) REAL ESTATE INVESTMENT TRUSTS.—For purposes of Code sections 856 through 860—

(A) any financial instrument issued by an enterprise (or a legal entity sponsored by an enterprise to implement a credit risk transfer transaction) as part of a credit risk transfer transaction shall be treated as a “real estate asset”; and

(B) any amount includible in gross income with respect to such a financial instrument shall be treated as interest on an obligation secured by a mortgage on real property.

(3) TAXABLE MORTGAGE POOLS.—A credit risk transfer transaction entered into by an enterprise (or a legal entity sponsored by an enterprise) shall
not be treated as a “taxable mortgage pool” for purposes of section 7701(i) of the Code.

(4) REGULATIONS.—The Secretary of the Treasury shall prescribe such regulations or administrative guidance as may be necessary or appropriate to carry out the purposes of this subsection.

(e) RULE OF APPLICATION.—Subsections (a) and (b) shall apply in the case of an approved credit risk transfer mechanism that is outstanding on, or is issued after, the date of the enactment of this Act.

(d) CONFORMING AMENDMENTS.—

(1) INVESTMENT COMPANY ACT OF 1940.—Section 3(c)(5) of the Investment Company Act of 1940 (15 U.S.C. 80a–3(c)(5)) is amended by adding at the end the following: “For any approved credit risk transfer mechanism (as defined under section 119 of the Bipartisan Housing Finance Reform Act of 2018), including a transaction in which credit risk is transferred on mortgage loans that do not directly back the securities being issued, the issuer shall be deemed to be a person primarily engaged in the business of purchasing or otherwise acquiring mortgages or other liens on and interests in real estate.”.

(2) RULE OF APPLICATION.—The amendments made by paragraph (1) shall apply in the case of an
approved credit risk transfer mechanism that is outstanding on, or is issued after, the date of the enactment of this Act.

SEC. 119. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) AFFILIATE.—The term “affiliate” means, with respect to an entity, any other entity that controls, is controlled by, or under common control with, such entity.

(2) AGENCY.—The term “Agency” means the Federal Housing Finance Agency.

(3) APPROVED CREDIT RISK TRANSFER MECHANISM.—The term “approved credit risk transfer mechanism” means a credit risk transfer mechanism that has been approved by the Director under section 110.

(4) APPROVED PRIVATE CREDIT ENHANCEMENT.—The term “approved private credit enhancement” means private credit enhancement that has been approved by the Director under section 104.

(5) APPROVED PRIVATE CREDIT ENHANCER.—The term “approved private credit enhancer” means a private credit enhancer that has been approved by the Director under section 105.
CONVENTIONAL MORTGAGES; ELIGIBLE
CONVENTIONAL MORTGAGES.—The terms “conven-
tional mortgage” and “eligible conventional mort-
gage” shall have the same meanings given such
terms in section 306(g)(4) of the National Housing
Act (12 U.S.C. 1721(g)(4)).

CREDIT RISK TRANSFER MECHANISM.—The
term “credit risk transfer mechanism” means, with
respect to a conventional mortgage, any transaction,
mechanism, product, structure, contract, or security
agreement by which a private market holder other
than the private credit enhancer for the mortgage
loan credit assumes the first loss position, or any
part of such position, associated with the mortgage.

DIRECTOR.—The term “Director” means
the Director of the Federal Housing Finance Agen-
cy.

TITLE II—DEVELOPMENT AND
DEPLOYMENT OF A MORT-
GAGE SECURITY MARKET EX-
CHANGE AND DATA REPOSI-
TORY

SEC. 201. PURPOSES.
The purposes of the Mortgage Security Market Ex-
change created by this title are—
(1) transferring the Common Securitization Platform as property of the enterprises to an independent Mortgage Security Market Exchange available to all issuers of residential mortgage-backed securities as a meaningful secondary mortgage market alternative to the enterprises and the Government National Mortgage Association that facilitates the transition to a post-conservatorship secondary mortgage market.

(2) developing interoperable technology and standards to be used by the Common Securitization Platform to accommodate all platform users;

(3) developing a uniform contractual and disclosure framework to standardize data and reporting for qualified securities issued through the platform;

(4) ensuring fair and non-discriminatory access to the Common Securitization Platform for any qualified issuer, servicer, agency, or other counterparty;

(5) ensuring the Common Securitization Platform has the flexibility to adapt to the evolving standards and requirements of the secondary mortgage market; and

(6) improving the uniformity, quality, and accessibility of information related to the creation, au-
SEC. 202. DEFINITIONS.

For purposes of this title, the following definitions shall apply:

(1) AFFILIATE.—With respect to the Exchange, the term “affiliate” means any entity that controls, is controlled by, or is under common control with, the Exchange.

(2) AGENCY.—The term “Agency” means the Federal Housing Finance Agency.

(3) COMMON SECURITIZATION PLATFORM; PLATFORM.—The terms “Common Securitization Platform” and “Platform” mean the securitization platform first described by the paper issued by the Agency on October 4, 2012, entitled “Building a New Infrastructure for the Secondary Mortgage Market”, and updated in subsequent documents released by the Agency, including annual strategic plans for the conservatorship of the enterprises and annual conservatorship scorecards.

(4) COMMON SECURITIZATION SOLUTIONS.—The term “Common Securitization Solutions” means Common Securitization Solutions, LLC, the joint venture formed by the enterprises in October 2013,
or any successor to Common Securitization Solutions, LLC, that is a joint venture of the enterprises.

(5) DEPOSITOR.—The term “depositor” means—

(A) any person authorized to submit documents or data for registration with the Repository; and

(B) any person qualified pursuant to section 231 (relating to organization and operation of the Repository) to inform the Repository of—

(i) newly-identified interest holders, whether through creation, assignment, or transfer; or

(ii) changes to interests of existing holders, including through modification, amendment, or restatement of, or discharge related to, any registered mortgage-related document.

(6) DIRECTOR.—The term “Director” means the Director of the Federal Housing Finance Agency.

(7) ENTERPRISE.—The term “enterprise” means—
(A) the Federal National Mortgage Association and any affiliate thereof, and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(8) EXCHANGE.—The term “Exchange” means the mortgage security market exchange established under section 211.

(9) EXCHANGE-AFFILIATED PARTY.—The term “exchange-affiliated party” means—

(A) any director, officer, employee or controlling shareholder of, or agent for, the Exchange;

(B) any shareholder, affiliate, consultant, or joint venture partner of the Exchange, and any other person, as determined by the Director (by regulation or on a case-by-case basis) that participates in the conduct of the affairs of the Exchange; and

(C) any independent contractor of the Exchange (including any attorney, appraiser or accountant) if—

(i) the independent contractor knowingly or recklessly participates in any violation of law or regulation, any breach of fi-
Breach or violation, breach or practice caused, or is likely to cause, more than a minimal financial loss to, or a significant adverse effect on, the Exchange.

(10) **MORTGAGE-RELATED DOCUMENT.**—The term “mortgage-related document” means any document or other information or data related to the use of residential real estate as security for a loan, including documents establishing an obligation to repay a loan secured by residential real estate, establishing a security interest in real estate (so long as such security interest has first been recorded or registered under State law to establish the priority of such interest), establishing the value of the real estate at the time the security interest is created, and insuring clear title to residential real estate pledged as security, or as the Director by regulation may define. Such documents may include electronic documents.

(11) **ORGANIZER.**—The term “organizer” means the person or entity that establishes the Exchange.
(12) PARTICIPANT.—The term “participant” means any person authorized to use data maintained or created by the Repository that is not otherwise available to the public.

(13) REPOSITORY.—The term “Repository” means the national mortgage data repository organized under section 231.

(14) TRANSFER DATE.—The term “Transfer Date” means the date established under section 215(b).

(15) TRANSITION PERIOD.—The term “Transition Period” means the period beginning on the date of the enactment of this Act and ending on the Transfer Date.

Subtitle A—Establishment and Authority of the Exchange

SEC. 211. ESTABLISHMENT.

(a) AUTHORITY OF DIRECTOR.—Under such regulations as the Director may prescribe, the Director shall provide for the organization, incorporation, examination, operation, and regulation of a Mortgage Security Market Exchange (“Exchange”). The Exchange shall be organized, operated, and managed as a not-for-profit entity.

(b) FORMATION OF EXCHANGE; APPLICATION.—
(1) FORMATION.—Subject to the terms of this subtitle and any regulations issued by the Director, a person or entity may file an application with the Director to establish the Exchange. The Exchange may be established as a corporation, mutual association, partnership, limited liability corporation, cooperative, or any other organizational form that the applicant may deem appropriate.

(2) CONTENTS OF APPLICATION.—An application for establishment of the Exchange shall include—

(A) the proposed articles of association;

(B) a statement of the general object and purpose of the Exchange, consistent with the provisions of this subtitle;

(C) the proposed capitalization and business plan for the Exchange;

(D) the proposed State whose law would govern, by election of the applicant, the operation of the Exchange to the extent not otherwise covered by this subtitle;

(E) information on the financial resources of the applicant;

(F) a statement of the relevant housing finance experience of the applicant;
(G) identification of the proposed senior managers of the Exchange, and the relevant experience of such individuals; and

(H) any other information the Director determines to be necessary to evaluate the background, experience, and integrity of the applicant and the proposed senior managers, or information otherwise relevant to determine the likely success of the proposed Exchange.

(3) DIRECTORS.—The Exchange shall be governed by a board of directors—

(A) a majority of which have experience in housing and housing finance businesses;

(B) at least one of which shall have knowledge of smaller financial institutions; and

(C) at least one of which shall have knowledge of residential mortgage securitization investing.

(4) SELECTION OF APPLICANT.—The Director shall select the applicant to establish the Exchange that the Director determines, in the Director’s sole discretion, has the managerial, financial, and operational resources to succeed, consistent with the purposes of this subtitle

(e) STATUS.—
(1) NOT A FEDERAL GOVERNMENT INSTRUMENTALITY.—The Exchange is not, and shall not be deemed to be, a department, agency, or instrumentality of the United States Government.

(2) SUPERVISION.—Notwithstanding any other provision of law—

(A) the Exchange shall be subject to exclusive supervision by the Agency, and the Agency shall have sole enforcement authority with respect to the Exchange for any violation of Federal law;

(B) the Exchange shall not be subject to designation under the Payment, Clearing, and Settlement Supervision Act of 2010; and

(C) the Exchange is authorized to conduct its business without regard to any qualification or similar statute in any State.

(d) REPORTS TO CONGRESS.—Commencing with the first annual report of the Director following the date of the enactment of this Act, the annual report of the Director under section 1319B of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4521) shall include a description of the Agency’s activities with regard to organization, incorporation, examination, operation, and regulation of the Exchange.
SEC. 212. GENERAL POWERS; AUTHORIZED AND PROHIBITED ACTIVITIES.

(a) GENERAL POWERS.—The Exchange may—

(1) adopt and use a corporate seal;

(2) determine a State whose law will govern the corporate business activities of the Exchange;

(3) adopt, amend, and repeal by-laws;

(4) sue or be sued, subject to section 234 (relating to judicial review);

(5) make contracts, incur liabilities, and borrow money;

(6) purchase, receive, hold, and use real and personal property and other assets necessary for the conduct of its operations;

(7) elect or appoint directors, officers, employees and agents, subject to section 211(d); and

(8) upon receipt of the Director’s prior written approval, establish subsidiaries or affiliates that shall be subject to the same rights, duties and responsibilities as the Exchange.

(b) AUTHORIZED ACTIVITIES.—In addition to the general powers under subsection (a), the Exchange shall—

(1) develop standards and disclosures related to pooling and securitizing residential mortgage loans in accordance with subtitle B;
(2) develop standards and disclosures related to servicing residential mortgage loans in accordance with subtitle B;

(3) operate and maintain the Platform and establish fees for use of the Platform;

(4) establish basic rules for use of the Platform;

(5) establish the Repository and establish fees for registration of mortgage-related documents and maintenance and use of data of the Repository, in accordance with subtitle C;

(6) perform any other service or engage in any other activity that the Director determines, by regulation or order, to be incidental to the activities enumerated in this subsection; and

(7) establish fees for the provision of other related or incidental services not inconsistent with the purposes of this subtitle.

(c) Prohibited Activities.—The Exchange may not—

(1) own, originate, aggregate, issue, service, insure, or guarantee any residential mortgage or other financial instrument that is associated with a residential mortgage;

(2) guarantee timely payment of principal or interest on any mortgage-related security;
(3) adopt access rules or fees for the Platform the effect of which is to discriminate against loan originators, aggregators, or issuers based on size, composition, business line, or loan volume; or

(4) perform any service or engage in any activity other than those authorized under this subtitle, unless such activity has been determined by the Director to be incidental to an authorized activity.

SEC. 213. MISSION AND STRUCTURE OF COMMON SECURITIZATION SOLUTIONS.

(a) MISSION.—Prior to the Transfer Date, the mission of Common Securitization Solutions shall be to accomplish the following goals:

(1) Developing a Common Securitization Platform—

(A) that is based upon interoperable technology and standards that can accommodate all platform users; and

(B) that ensures fair and non-discriminatory access for any issuer, enterprise, servicer, agency, or other counterparty.

(2) Developing a uniform contractual and disclosure framework that facilitates a deep, liquid, and resilient secondary mortgage market for mortgage-backed securities.
(3) Developing functions to support the non-
Government guaranteed securitization market.

(4) Continuing, advancing, or developing any
other initiative as authorized by the CSS Board of
Managers, with the approval of the Director, to en-
hance efficiency, liquidity, and security in the sec-
ondary market for residential mortgage loans, pro-
vided such initiative does not conflict with or unre-
asonably delay the completion of the goals described
under paragraph (1), (2), or (3).

(b) CSS BOARD OF MANAGERS.—

(1) SIZE.—The size of the membership of the
CSS Board of Managers shall be fixed at:

(A) For the one-year period beginning
upon commencement of the Transition Period,
four members.

(B) For the one-year period following the
period described under subparagraph (A), seven
members.

(C) After the end of the one-year period
described under subparagraph (B), nine mem-
bers.

(2) APPOINTMENT AND QUALIFICATIONS.—The
Director shall appoint the additional members re-
quired under paragraph (1) from among individuals that—

(A) have demonstrated knowledge of, or experience in, financial management, financial services, risk management, information technology, mortgage securitization, secondary mortgage markets, or housing finance; and

(B) will not be simultaneously employed by an enterprise or serving as a director of an enterprise.

(3) FIDUCIARY DUTY.—All members of CSS Board of Managers shall owe a fiduciary duty to the enterprises prior to the Transfer Date.

SEC. 214. TRANSITION PERIOD.

(a) REQUIRED ACTIVITIES PRIOR TO THE TRANSFER DATE.—

(1) IN GENERAL.—Prior to the Transfer Date, Common Securitization Solutions shall develop, promulgate, and finalize standards that—

(A) develop a uniform contractual and disclosure framework for issuers, including issuers other than the enterprises;

(B) specify the requirements for loans that may serve as collateral for mortgage-backed securities issued through the Common
51

Securitization Platform, including securities that will be issued by issuers other than the enterprises; and

(C) specify the requirements for operating and maintaining the Common Securitization Platform and the establishment of reasonable fees for use of the Common Securitization Platform.

(2) APPROVAL AND MODIFICATIONS OF STANDARDS.—

(A) INITIAL STANDARDS.—In establishing the standards described under paragraph (1), Common Securitization Solutions shall use established industry standards as a basis for standardization requirements for the issuance of such securities through the Common Securitization Platform.

(B) APPROVAL OF STANDARDS.—The standards developed pursuant to paragraph (1) shall be subject to approval by a 2/3 vote of the CSS Board of Managers and by the Director.

(B) REVISIONS TO STANDARDS.—Common Securitization Solutions or the Exchange, as applicable, may revise the standards established pursuant to paragraph (1) from time to time as
may be necessary. Material revisions to such standards shall require a $2/3$ vote of the CSS Board of Managers or the board of directors of the Exchange, as applicable, and approval of the Director.

(3) Issuing Securities and Ensuring Capabilities.—

(A) In General.—The Director shall establish a date or dates, not later than 2 years after the date of enactment of this Act, by which Common Securitization Solutions shall facilitate the issuance of securities by issuers other than the enterprises to issue mortgage-backed securities.

(B) Exception.—The Director may delay a date established under subparagraph (A) for 1 year if the Director, in consultation with the Federal Housing Finance Oversight Board—

   (i) determines that—

      (I) facilitation of such securities is not feasible within that period of time and could adversely impact the housing market; or

      (II) the capabilities of other entities is not feasible within that period
of time and could adversely impact fa-
cilitating the issuance of securities by
the enterprises; and
(ii) submits to Congress a report de-
scribing the justification for the determina-
tions made under clause (i).

(4) **TRANSFER OF FUNDS FROM THE ENTER-
PRISES.**—At a time established by the Director, but
not later than the Transfer Date, the Agency shall
transfer to Common Securitization Solutions such
funds from the enterprises as the Director, after
consultation with the CSS Board of Managers, de-
termines may be reasonably necessary for Common
Securitization Solutions to begin carrying out the
operations and activities of the Common
Securitization Platform and the contractual and dis-
closure framework.

(b) **REPORTS ON DEVELOPMENT AND TRANSI-
TION.**—

(1) **QUARTERLY REPORT ON DEVELOPMENT.**—
Not later than 1 year after the date of enactment
of this Act, and every quarter thereafter until the
Transfer Date, the Director shall submit to Con-
gress a report on the status of the development of
the Common Securitization Platform and the con-
tractual and disclosure framework, which shall in-
clude—

(A) the projected timelines, including

issues and impediments, for—

(i) completing development of the

Common Securitization Platform to sup-
port the securitization needs of the enter-
prises; and

(ii) completing development of the

Common Securitization Platform and the
contractual and disclosure framework to
support the securitization needs of issuers
other than the enterprises; and

(B) the projected budget, including costs
incurred by Common Securitization Solutions
and the enterprises, for the development of the
Common Securitization Platform and the con-
tractual and disclosure framework.

(2) REPORT ON TRANSITION.—Not later than 2
years after the date of enactment of this Act, the
Director shall develop a plan, and submit to the
Committee on Banking, Housing, and Urban Affairs
of the Senate and the Committee on Financial Serv-
ices of the House of Representatives a report on
such plan, to transition, by the Transfer Date, the
Common Securitization Platform and the contractual and disclosure framework from Common Securitization Solutions into a private, nonprofit entity that best facilitates a deep, liquid, and resilient secondary mortgage market for mortgage-backed securities.

(3) **Annual Report on the Common Securitization Platform.**—The Inspector General of the Agency shall issue an annual report to the Congress on the status of the Common Securitization Platform until the Transfer Date.

**SEC. 215. TRANSFER DATE.**

(a) **Transfer of CSS to Exchange.**—The Director shall oversee the sale of Common Securitization Solutions, including the Common Securitization Platform and the contractual and disclosure framework, and including any associated intellectual property, technology, systems, and infrastructure of either CSS or the enterprises, at the Transfer Date, to the Exchange, in accordance with this Act.

(b) **Transfer Date.**—

(1) **Designated Transfer Date.**—The Director shall establish a Transfer Date for the transition of ownership of the Common Securitization Solutions, including the Common Securitization Platform
and the contractual disclosure framework, and including any associated intellectual property, technology, systems, and infrastructure of either CSS or the enterprises, from the enterprises to the Exchange.

(2) Public notice.—In establishing the Transfer Date under paragraph (1), the Director shall provide notice to the public of such date, including on the website of the Agency.

(3) Deadline.—The Transfer Date established under paragraph (1) shall be no earlier than 2 years after the date of the enactment of this Act and no later than the date on which both charters of the enterprises are terminated pursuant to section 1367(k) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992.

(c) Transfer of property.—

(1) In general.—At a time established by the Director, but not later than the Transfer Date, the Director shall direct the enterprises to transfer or sell to the Exchange any property associated with the ownership of Common Securitization Solutions, including intellectual property, technology, systems, and infrastructure (including technology, systems, and infrastructure developed by the enterprises for
the Common Securitization Platform), as well as any
other legacy systems, infrastructure, and processes
that may be necessary to carry out their operations
and activities.

(2) CONTRACTUAL AND OTHER LEGAL OBLIGA-
tions.—As may be necessary for the Agency and
the enterprises to comply with legal, contractual, or
other obligations, the Director shall have the author-
ity to require that any transfer authorized under
paragraph (1) occurs as an exchange for value, in-
cluding through the provision of appropriate comp-
pensation to the enterprises or other entities respon-
sible for creating, or contracting with, the Exchange.

(3) HISTORICAL LOAN-LEVEL DATA.—

(A) TRANSFER TO EXCHANGE.—The
transfer of property described under this sub-
section shall include historical loan-level data
sets held by the enterprises.

(B) STANDARDS FOR DATA AVAIL-
ABILITY.—With respect to historical loan-level
data received by the Exchange under this sub-
section, the Director shall issue regulations—

(i) requiring that such data be made
available for public use;
(ii) setting standards by which such data may be accessed;

(iii) prohibiting any discrimination based on the size of entity, volume of business done with the Platform, or business model, with respect to—

(I) accessing such data; or

(II) the fees charged for accessing such data, if any.

(4) UNDERWRITING TECHNOLOGY.—

(A) TRANSFER TO EXCHANGE.—The transfer of property described under this subsection shall include the underwriting systems held by the enterprises (including the technology backing the underwriting engines).

(B) STANDARDS FOR TECHNOLOGY AVAILABILITY.—With respect to the underwriting systems received by the Exchange under this subsection, the Director shall issue regulations—

(i) requiring that such underwriting systems be made available for public use;

(ii) setting standards by which such underwriting systems may be accessed;
(iii) requiring the underwriting system to be available for mortgages for both the Platform and the Ginnie Mae Plus program established pursuant to section 101, with no discriminatory treatment between the two; and

(iv) prohibiting any discrimination based on the size of entity, volume of business done with the Platform, or business model, with respect to—

(I) accessing such underwriting systems; or

(II) the fees charged for accessing such underwriting systems, if any.

SEC. 216. REPAYMENT OF COST.

(a) IN GENERAL.—Not later than 10 years after the Transfer Date, the total cost of the property transferred in accordance with section 215(c) at the time of the transition, as determined by the Director, in consultation with the Federal Housing Finance Oversight Board, shall be repaid by the Exchange to the entity that owned the property prior to the time of transfer.

(b) THIRD-PARTY VALUATION.—Before the repayment required under subsection (a), the Director shall contract with a third-party to provide a valuation of the
total cost of the property transferred in accordance with section 215(c) at the time of the transition.

(c) Fees Permitted.—The Exchange may charge a reasonable fee for the use of the Common Securitization Platform and other services, for the purpose of making the repayment described under subsection (a), but may not discriminate in the amount of fee charged based on the size of entity, volume of business done with the Platform, or business model.

(d) Prohibition on Pricing Discrimination.—The Exchange may not discriminate on the amount of a fee paid by any issuer, enterprise, servicer, agency, or other counterparty for the use of the Common Securitization Platform based on the size or mortgage production volume of the issuer, enterprise, servicer, agency, or other counterparty.

SEC. 217. REGULATION, SUPERVISION, AND ENFORCEMENT.

(a) General Oversight.—The Director shall exercise, by rule, order, or guidance, oversight of the Exchange, which shall include the authority to regulate, supervise, and examine the Exchange and take enforcement actions against the Exchange or any Exchange-affiliated party, consistent with the provisions of the Federal Housing Enterprise Financial Safety and Soundness Act of 1992.
(b) Scope of Authority.—The authority of the Director under this section shall include the authority to exercise such incidental powers as may be necessary or appropriate to fulfill the duties and responsibilities of the Director in the oversight, supervision, and regulation of the Exchange.

(c) Consultation with Other Agencies.—In exercising authority to regulate and supervise the Exchange, the Director shall consult with other Federal departments and agencies that regulate or supervise entities, institutions, or companies that are or may become subject to standards, rules, processes, or procedures developed by the Exchange (including issuers through the Platform and depositors or participants in the Repository), including the Government National Mortgage Association, the Bureau of Consumer Financial Protection, any Federal banking agency (as defined under section 3 of the Federal Deposit Insurance Act), and the National Credit Union Administration.

(d) Annual Assessment.—The Director shall establish and collect from the Exchange an annual assessment in an amount not exceeding the amount sufficient to provide for reasonable costs (including administrative costs) and expenses of the Agency related to its oversight of the Exchange. The amounts received by the Director...
from assessments under this section shall not be construed
to be Government or public funds or appropriated money.
Notwithstanding any other provision of law, the amounts
received by the Director from assessments under this sec-
tion shall not be subject to apportionment for the purpose
of chapter 15 of title 31, United States Code, or under
any other authority.

Subtitle B—Standards for Qualified
Securities

SEC. 221. QUALIFIED SECURITIES.

For purposes of this subtitle, the term “qualified se-
curity” means a security that—
(1) is issued in accordance with a standard
form securitization agreement under section 222(a);
(2) is issued through the Platform; and
(3) is not guaranteed, in whole or in part, by
the United States Government.

SEC. 222. STANDARDS FOR QUALIFIED SECURITIES.

(a) Standard Form Securitization Agre-
ements.—
(1) In general.—The Exchange shall develop,
adopt, and publish standard form securitization
agreements for collateral that will be used to back
qualified securities.
(2) REQUIRED CONTENT.—The standard form securitization agreements to be developed under paragraph (1) shall include terms relating to—

(A) pooling and servicing;

(B) purchase and sale;

(C) representations and warranties, including representations and warranties as to compliance or conformity with standards established by the Exchange, as appropriate;

(D) indemnification and remedies, including principles of a repurchase program that will ensure an appropriate amount of risk retention under the representations and warranties set forth under subparagraph (C); and

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

(b) REGISTRATION WITH THE REPOSITORY.—The Exchange shall require that any mortgage-related document associated with collateral for qualified securities be registered with the Repository.

(c) STANDARDS FOR SERVICING.—The Exchange shall develop, adopt, and publish—

(1) servicing standards, including for the modification, restructuring, or work-out of any mortgage that serves as collateral for a qualified security; and
(2) a servicer succession plan, which may include provisions for—

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

(B) a plan to achieve consistency in servicing systems related to systematic note-taking, consistent mailing addresses, and other points of contact for borrowers to use, among other items.

(d) Standards for Servicer Reporting.—The Exchange shall develop, adopt, and publish standards for the reporting obligations of servicers of any mortgage that serves as collateral for a qualified security.

(e) Data Standards; Disclosure Standards.—

(1) Data Standards.—The Exchange shall develop, adopt, and publish standard data definitions for all aspects of loan origination, appraisals, and servicing. In developing such definitions, the Exchange shall consider the data standard-setting work undertaken by the Mortgage Industry Standards Maintenance Organization through the enterprises’ Uniform Mortgage Data Program announced by the Agency on May 24, 2010.
(2) Disclosure Standards.—The Exchange shall develop, adopt, and publish standards for disclosure of loan origination, appraisal, and servicing data, including data required in subsection (a)(2) for residential mortgage loans that comprise qualified securities.

(3) Coordination.—In developing the data and disclosure standards required by this subsection, the Exchange shall ensure that such standards are coordinated.

(4) Privacy Protections.—In prescribing the definitions and standards required under this subsection, the Exchange 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. Such standards shall expressly prohibit the identification of specific borrowers.

(5) Consultation.—When reviewing any disclosure standards established under this subsection, the Director shall consult with the Securities and Exchange Commission on the extent to which such disclosure standards align with standards or other requirements issued by the Commission.

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

(2) RULEMAKING.—The Director shall issue regulations regarding the qualifications of trustees under paragraph (1) that shall, to the extent practicable, be consistent with the qualification provisions applicable to trustees under section 310(a) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(a)).

(3) CONFLICTS OF INTEREST.—The Director shall issue conflicts of interest regulations that apply to a qualified trustee. Such regulations shall, to the extent practicable, be consistent with those conflicts of interest provisions applicable to an indenture trustee under section 310(b) of the Trust Indenture Act of 1939 (15 U.S.C. 77jjj(b)).

(4) REPORTING OF CLAIMS.—Any time a trustee brings a claim against a qualified issuer on behalf of investors with respect to a standard form securitization agreement, the trustee shall notify the Director of such claim.

(5) PROTECTION OF INVESTOR RIGHTS.—For the purpose of protecting investor rights, each trustee shall—
(A) maintain a list of all investors (beneficial owners) in a qualified security;

(B) update such list from time to time;

(C) not make such list available to investors (beneficial owners); and

(D) act as a means to communicate information about the qualified security to investors (beneficial owners) and act as a means for investors (beneficial owners) to communicate with each other.

(6) NO LIABILITY FOR CERTAIN COMMUNICATIONS.—A trustee shall not be liable for the content of any information provided to the trustee by an investor (beneficial owner) that the trustee communicates to another investor (beneficial owner).

(7) INVESTOR (BENEFICIAL OWNER) NOTIFICATION OF TRUSTEE.—A person who becomes an investor (beneficial owner) in a qualified security shall promptly notify the trustee of such security of the change in ownership.

(g) INDEPENDENT THIRD PARTY.—If the majority of investors (beneficial owners) in a pool of qualified securities chooses to hire an independent third party to act on behalf of the best interests of the investors (beneficial owners), such party shall—
(1) be granted access to the loan documents for the mortgage loans backing such security and all servicing reports the servicer provides to investors (beneficial owners) or the trustee;

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

(3) have the right, on behalf of the investors (beneficial owners), to inform the trustee of such securities of any breach of the securitization agreement identified by the third party.

(h) MANDATORY ARBITRATION.—

(1) IN GENERAL.—All disputes between an owner of a qualified security and the qualified issuer of such security relating to representations and warranties shall be subject to mandatory arbitration procedures established by the Exchange, in accordance with current market practices.

(2) SELECTION OF ARBITRATOR.—Investors (beneficial owners) and issuers subject to a dispute described under paragraph (1) shall have the right to agree on an independent arbitrator. If the parties cannot agree on an independent arbitrator, the Ex-
change shall select an independent arbitrator for the parties.

(3) Reporting duty of arbitrator.—

(A) Upon commencement.—The arbitrator shall provide the Exchange with notice upon commencement of any arbitration under this subsection.

(B) Upon conclusion.—Upon conclusion of any arbitration under this subsection, the arbitrator shall provide the Exchange with—

(i) the decision reached by the arbitrator; and

(ii) the basis for the arbitrator’s decision, including any evidence or testimony received during the arbitration process.

(i) Use of standards.—In developing, adopting, and publishing the initial standards required under this section, the Exchange shall, to the extent practicable, utilize the standards finalized by Common Securitization Solutions pursuant to section 214(a).

(j) Timing of issuance; agency review; authority to revise standards.—

(1) Timing.—The Director shall issue any regulations required by this section not later than the end of the 12-month period beginning on the date of
the enactment of this Act. The Exchange shall issue any definitions, standards, rules, processes, or procedures required by this section not later than the end of the 12-month period beginning on the date of the establishment of the Exchange.

(2) AGENCY REVIEW.—Any definition, standard, rule, process or procedure established by the Exchange shall be submitted to the Director for review and approval prior to its implementation if, in the Director’s discretion, the Director requires such submission. Any definition, standard, rule, process or procedure that the Director requires be submitted to the Agency for review and approval shall be reviewed within three months of submission.

(3) AUTHORITY TO REVISE.—

(A) IN GENERAL.—The Exchange may review, revise, and, if revised, re-publish any standard form securitization agreement or other definition, standard, rule, process, or procedure required to be developed by this subtitle if the Exchange determines review or revision to be necessary or appropriate to satisfy the goals of this subtitle.

(B) APPLICATION OF REVISIONS.—Any revisions made pursuant to subparagraph (A)
shall apply only to securitizations made after the date of such revision.

(k) Effect of Conflict.—In the event a definition, standard, rule, process, or procedure established by the Exchange is in conflict with any definition, standard, rule, process, or procedure established by another Federal department or agency, the Director shall consult with the other Federal department or agency, and provide prompt written notification to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives, of the conflict.

(l) Public Involvement.—In developing definitions, standards, rules, processes, and procedures required by this subtitle, the Exchange shall work with market participants, including servicers, originators, and mortgage investors, and develop methods for gathering information and comment from such groups.

Subtitle C—National Mortgage Data Repository

SEC. 231. ORGANIZATION AND OPERATION.

(a) Organization and Operation.—Under such regulations as the Director may prescribe, the Exchange shall organize and operate a national mortgage data repository (“Repository”).
(b) AUTHORIZED ACTIVITIES.—In addition to organizing and operating the Repository, the Exchange shall—

(1) establish and operate a repository for mortgage-related documents;

(2) establish standards for qualification of any depositor of mortgage-related documents to the Repository;

(3) establish standards and procedures for submission of mortgage-related documents to the Repository, including required information and the type and format of information and data;

(4) establish procedures for validation of mortgage-related documents and the data contained in the Repository;

(5) establish standards and procedures for acceptance of mortgage-related documents (including electronic copies), and notice of acceptance, by the Repository;

(6) establish standards and procedures for registration of any mortgage-related document with the Repository, including notice of registration and the assignment of a unique identifier, where such standards and procedures include a requirement that any such mortgage-related document must first be re-
corded in the appropriate local jurisdiction, as may be required under State or local law;

(7) establish standards and procedures for recording the creation, assignment, or transfer of an interest in any registered mortgage-related document and for requiring the Repository to notify the appropriate local jurisdiction of such creation, assignment, or transfer;

(8) establish standards and procedures for qualification of depositors and participants in the Repository;

(9) establish procedures for proper demonstration of registration of mortgage-related documents with the Repository and recordation of an interest by the holder of an interest in any such document, subject to regulations issued by the Director in accordance with section 232 (relating to legal effect of registration with the Repository);

(10) establish and maintain a catalog of the mortgage-related documents registered with the Repository;

(11) establish standards and procedures for disposition of mortgage-related documents, including safekeeping, long-term storage, or destruction of paper documents;
(12) establish standards and procedures for making data publicly available;

(13) ensure that data collected and maintained by the Repository are kept secure and protected against unauthorized disclosure, taking into consideration issues of consumer privacy and all statutes, rules, and regulations related to privacy of consumer credit information and personally identifiable information, and prohibit the identification of specific borrowers;

(14) establish a process, including notification from the public, for identification and correction of incorrect information submitted to or maintained by the Repository;

(15) establish fees for registration of mortgage-related documents and maintenance and use of data, and for the provision of other related services not inconsistent with the purposes of this subtitle; and

(16) perform any other service or engage in any other activity that the Director determines, by regulation or order, to be incidental to the activities enumerated in this subsection.

(e) PROHIBITED ACTIVITIES.—The Exchange may not—
(1) transfer or sell data maintained by the Repository to the parent or affiliated companies of the operator of the Exchange; and

(2) use data maintained by the Repository for marketing or any other purpose not directly associated with the operation of the Exchange.

(d) REQUIREMENTS ON PARTICIPANTS.—Each participant shall—

(1) comply with such requirements as may be set by the Repository for using data maintained or created by the Repository; and

(2) use such designation as the Repository may provide, such as a unique identifier.

SEC. 232. LEGAL EFFECT OF REGISTRATION WITH REPOSITORY.

Notwithstanding any provision of State or Federal law to the contrary, by proper demonstration of registration with the Repository, any holder of an interest in any mortgage-related note shall satisfy any requirement for demonstration of a right to act regarding such note or other registered data that exists in State or Federal law, including any obligation to produce or possess an original note. The Director shall provide for the establishment of procedures for proper demonstration of registration of any mortgage-related document and of an interest by the hold-
er of an interest in any such document with the Repository. Once registered with the Repository, such registration shall be a legal right enforceable in any judicial or nonjudicial process. Nothing in this section shall be construed as preempting any State or local law requiring a mortgage-related document to be recorded in the appropriate local jurisdiction.

SEC. 233. GRANTS TO STATES; REPAYMENT.

(a) GRANTS TO STATES.—There is hereby authorized to be appropriated $50,000,000 to the Director for the establishment of a fund to be administered by the Agency for providing grants to States, on application to the Agency, to facilitate participation in the Repository by any depositor or participant or class of depositors or participants, or any other person upon appropriate demonstration to the Agency that such a grant would assist in the accomplishment of the purposes of this subtitle. Any such amounts appropriated and not granted by the Agency within five years of the date of the enactment of this Act shall be returned to the Treasury of the United States.

(b) REPAYMENT.—The Director shall cause to be collected from the Exchange and deposit in the Treasury of the United States an amount equal to the aggregate amount provided as grants to States pursuant to sub-
section (a) within the 10-year period beginning on the date that the first grant is made pursuant to subsection (a).

SEC. 234. JUDICIAL REVIEW.

Except as otherwise expressly provided under this subtitle, no person other than the Director or the Attorney General of the United States, or any duly authorized representative of the Director or the Attorney General, may proceed against the Repository in any State or Federal court. The prohibition in the preceding sentence shall not apply to a civil action against the Repository or any duly authorized agent thereof for breach of a contract, including breach of a representation or warranty, or breach of privacy related to data collected and maintained by the Repository or any duly authorized agent thereof.

SEC. 235. TRANSITION PROVISIONS.

(a) In General.—The Agency shall provide for a transition period to permit the efficient implementation of the provisions of this subtitle. Such transition may include periods for testing, early adoption, and final mandatory adoption for all recorded mortgages.

(b) Electronic Submissions.—The Repository shall accept electronic submissions and paper-based documents submitted electronically subject to rules of the Repository. After the expiration of the 10-year period that begins upon the date of the enactment of this Act, subject
to an extension of such period for up to 5 additional years if the Director determines appropriate, the Repository shall require only electronic submission.

**TITLE III.—AFFORDABLE ACCESS AND MARKET MODERNIZATION REFORMS**

[SEC. 301. AFFORDABILITY PRINCIPLES.]

The sponsors recognize the growing need for effective affordable housing solutions in the United States and are committed to providing sustainable, dedicated, and transparent funding to assist in addressing underserved individuals and markets that are heavily represented by low-income families and first-time homebuyers. The sponsors believe that government resources, combined with other sources of public and private funding and the work of market participants, can be leveraged to provide substantial funding in support of existing programs that contribute to the development of the supply of affordable housing options for low-income individuals and communities, such as the Housing Trust Fund and the Capital Magnet Fund. Combined with other sources of government funding, including current U.S. Department of Housing and Urban Development programs such as the Housing Choice Voucher program, these programs can help provide holistic affordable housing solutions. The
sponsors also believe that dedicated funding can be used to directly support underserved individuals, such as low-income and first-time homebuyers who are unable to participate in a mortgage finance market. According to one analysis, “approximately 23% of those receiving a subsidy under the current system are not LMI (low- or moderate-income) households.” The sponsors seek feedback on how to most effectively target the assistance in order to directly help individuals who are most in need.

To provide a substantial increase in financing of the affordable housing activities described in this title, the sponsors believe that in each fiscal year, all mortgage loans that collateralize any security on which Ginnie Mae guarantees the timely payment of principal and interest pursuant to title III of the National Housing Act (12 U.S.C. 1716 et seq.) should be assessed an affordability fee in conjunction with the benefit of that government guarantee. The fee should be flat, transparent, and fully disclosed to borrowers, and assessed on each dollar of the outstanding principal balance of the mortgage. Funds generated from these assessments should be substantially more than what is available under today’s system and remitted to the Federal Government, which would be responsible for their management and allocation. Funding should be on-budget, fully tracked, and held accountable to per-
formance metrics, to ensure that assistance is spent effectively and appropriately, and targeted directly to individ-
uals.]

[. Ginnie Mae and FHFA, as the regulators of issuers and private credit enhancers, should ensure that market participants are appropriately providing access to mortgage credit and secondary mortgage market financing for all creditworthy borrowers, including underserved bor-
rowers, across all regions, localities, institutions, and prop-
erty types (including rental housing) and throughout fluc-
tuations in the business cycle.]

[SEC. 302. MULTIFAMILY PRINCIPLES.

The sponsors recognize the importance of multifamily financing in providing housing options and affordable rental properties and seek to preserve what works in the market today. The sponsors believe that the current multi-
family business of Fannie and Freddie will continue to function within the new multi-family housing market as entities with an explicit government guaranty of their mult-
ifamily securities provided by Ginnie Mae.]

[SEC. 303. MODERNIZATION PRINCIPLES.

[. The sponsors recognize the importance of con-
tinuing to work on reforms that revitalize and update tax, investment, and banking laws to reflect the realities of fi-
nancing mortgages in a modern age, while maintaining ap-
propriate consumer protections and investor rights. The sponsors recognize the necessity of better engaging private sector capital to inform, compete with, and supplement any guarantees provided by the government to ensure a functioning mortgage market under all economic conditions.

The sponsors believe that utilizing additional private capital in our housing finance system, including capital used to finance mortgage debt, will help increase competition, enhance transparency, spur innovation, reduce moral hazard, and create more choices for consumers to find a safe, affordable mortgage that best matches each borrower’s own needs. The sponsors will continue to search for reforms that create meaningful paths for private capital to flow into the mortgage market and seek feedback on how to create appropriate incentives to do so.

**TITLE IV—ENTERPRISE TRANSITION**

**SEC. 401. DEFINITIONS.**

For purposes of this title, the following definitions shall apply:

(1) **CHARTER.**—The term “charter” has the following meaning:
(A) FNMA.—With respect to the Federal National Mortgage Association, such term means the following provisions of the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.):

(i) In section 302 (12 U.S.C. 1717)—

(I) in subsection (a), paragraphs (1) and (2)(B); and

(II) subsection (b)(2).


(iii) Section 304 (12 U.S.C. 1719).

(iv) Section 308(b) (12 U.S.C. 1723(b)).

(v) In section 309 (12 U.S.C. 1723a)—

(I) subsection (e)(2);

(II) in subsection (d), paragraphs (2) through (4); and

(III) subsections (j) through (o).

(B) FHLMC.—With respect to the Federal Home Loan Mortgage Corporation, such term means the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.).
(2) DIRECTOR.—The term “Director” means the Director of the Federal Housing Finance Agency.

(3) ENTERPRISE.—The term “enterprise” means—

(A) the Federal National Mortgage Association; and

(B) the Federal Home Loan Mortgage Corporation.

Subtitle A—Transition and Conversion

SEC. 411. REPEAL OF CHARTERS.

Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended by striking subsection (k) and inserting the following new subsection:

“(k) REPEAL OF ENTERPRISE CHARTERS.—Not later than the expiration of the 5-year period beginning on the date of the enactment of the Bipartisan Housing Finance Reform Act of 2018, the Director of the Federal Housing Finance Agency shall revoke and terminate the charter of each enterprise.”.
SEC. 412. TERMINATION OF CURRENT CONSERVATORSHIPS; MANDATORY RECEIVERSHIPS.

Not later than the revocation and termination of the charter of an enterprise pursuant to section 1367(k) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617(k)), the Director of the Federal Housing Finance Agency shall, with respect to such enterprise, appoint the Federal Housing Finance Agency as receiver under such section 1367 and thereafter shall carry out such receivership under the authority of such section and section 414 of this Act.

SEC. 413. RECEIVER'S DISCRETIONARY AUTHORITY TO CREATE RECEIVERSHIP ENTITY.

Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended by striking subsection (i) and inserting the following:

“(i) RECEIVERSHIP ENTITY.—

“(1) AUTHORITY; ORGANIZATION.—The Agency, as receiver appointed pursuant to subsection (a), may establish a receivership entity in such form or structure as the Agency deems appropriate to meet the purposes of receivership, this section, and section 414 of the Bipartisan Housing Finance Reform Act of 2018.
“(2) Powers.— Upon creation of such receivership entity, the Agency may transfer to it any assets or liabilities of the regulated entity in default as the Agency, in its discretion, determines to be appropriate, and may authorize the receivership entity to perform any temporary function that the Agency, in its discretion, prescribes in accordance with this section. The transfer of any assets or liabilities of a regulated entity for which the Agency has been appointed receiver shall be effective without any further approval under Federal or State law, assignment, or consent with respect thereto. Such authority is in addition to any other power the Agency may have as receiver or may confer on the receivership entity.

“(3) Regulations.— The Agency may promulgate such regulations as the Agency determines to be necessary or appropriate to implement this subsection.

“(4) No Federal Status.— A receivership entity established pursuant to this section shall not be an agency, establishment, or instrumentality of the United States.”.
SEC. 414. EFFECT OF REPEAL OF ENTERPRISE CHARTER.

Section 1367 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4617) is amended by adding at the end the following new subsection:

“(l) Effect of Repeal of Enterprise Charters.—

“(1) Fannie Mae.—Effective upon the repeal of the charter of the Federal National Mortgage Association pursuant to subsection (k), the Federal National Mortgage Association shall have no authority to conduct new business under such charter, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of—

“(A) outstanding debt obligations of the Federal National Mortgage Association, including any—

“(i) bonds, debentures, notes, or other similar instruments;

“(ii) capital lease obligations; or

“(iii) obligations in respect of letters of credit, bankers’ acceptances, or other similar instruments; or

“(2) FREDDIE MAC.—Effective upon the repeal of the charter of the Federal Home Loan Mortgage Corporation pursuant to subsection (k), the Federal Home Loan Mortgage Corporation shall have no authority to conduct new business under such charter, except that the provisions of such charter in effect immediately before such repeal shall continue to apply with respect to the rights and obligations of any holders of—

“(A) outstanding debt obligations of the Federal Home Loan Mortgage Corporation, including any—

“(i) bonds, debentures, notes, or other similar instruments;

“(ii) capital lease obligations; or

“(iii) obligations in respect of letters of credit, bankers’ acceptances, or other similar instruments; or

“(B) mortgage-backed securities guaranteed by the Federal Home Loan Mortgage Corporation.

“(3) EXISTING GUARANTEE OBLIGATIONS.—
“(A) EXPLICIT GUARANTEE.—The full faith and credit of the United States is pledged to the payment of all amounts which may be required to be paid under any obligation described in paragraph (1) or (2).

“(B) CONTINUED DIVIDEND PAYMENTS.—
Subject only to section 415(a)(4) of the Bipartisan Housing Finance Reform Act of 2018 and notwithstanding any other provision of law, provision 2(a) (relating to Dividend Payment Dates and Dividend Periods) and provision 2(c) (relating to Dividend Rates and Dividend Amount) of the Senior Preferred Stock Purchase Agreement, or any provision of any certificate in connection with such Agreement creating or designating the terms, powers, preferences, privileges, limitations, or any other conditions of the Variable Liquidation Preference Senior Preferred Stock of an enterprise issued pursuant to such Agreement—

“(i) shall not be amended, restated, or otherwise changed to reduce the rate or amount of dividends in effect pursuant to such Agreement as of the Letter Agreements between the Secretary of the Treas-
cury and the conservator of the enterprises dated December 21, 2017, except that any amendment to such Agreement to facilitate the sale of assets of the enterprises shall be permitted; and

“(ii) shall remain in effect until the guarantee obligations described under paragraphs (1)(B) and (2)(B) of this subsection are fully extinguished.

“(C) SENIOR PREFERRED STOCK PURCHASE AGREEMENT DEFINED.—For purposes of this paragraph, the term ‘Senior Preferred Stock Purchase Agreement’ means—

“(i) the Amended and Restated Senior Preferred Stock Purchase Agreement, dated September 26, 2008, as such Agreement has been amended on May 6, 2009, December 24, 2009, and August 17, 2012, respectively, as such Agreement has been modified by the Letter Agreements between the Secretary of the Treasury and the conservator of the enterprises dated December 21, 2017, and as such Agreement may be further amended and restated, entered into between the Depart-
ment of the Treasury and each enterprise,
as applicable; and

“(ii) any provision of any certificate in
connection with such Agreement creating
or designating the terms, powers, prefer-
ences, privileges, limitations, or any
other conditions of the Variable Liquida-
tion Preference Senior Preferred Stock of
an enterprise issued or sold pursuant to
such Agreement.”.

SEC. 415. WIND-DOWN AND TRANSITION.

(a) IN GENERAL.—The Agency, acting as receiver of
an enterprise pursuant to section 412 of this Act and sec-
tion 1367 of the Federal Housing Enterprises Financial
Safety and Soundness Act of 1992 shall take such actions
as necessary, and that comply with the requirements of
this Act, the Federal Housing Enterprises Financial Safe-
ty and Soundness Act of 1992, and any other applicable
provisions of law, to—

(1) provide for the efficient, effective, and expedi-
tious wind down of the operations of the enterprise
in an orderly manner;

(2) plan for and carry out an equitable division,
distribution, and liquidation of the assets and liabil-
ities of the enterprise, including any infrastructure,
property, including intellectual property, platforms, or any other thing or object of value, in a manner and extent that complies with paragraph (3) of this section;

(3) provide for the reorganization of the successor entity to the enterprise, or to the receivership entity established for the enterprise pursuant to section 1367(i) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as an entity qualified to act—

(A) as a private credit enhancer approved to provide private credit enhancement under title I of this Act with respect to eligible conventional mortgages and authorized to carry out a mortgage purchase program under section 116 of this Act; or

(B) as an issuer of securities based on or backed by eligible conventional mortgages and, to the extent such entity is approved as an issuer of such securities by the Government National Mortgage Association, and to obtain guarantees of such securities from such Association.

(4) restructure the Senior Preferred Stock Purchase Agreements (as such term is defined in
1367(l)(3) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992, as added by section 414 of this Act) to—

(A) permit the redemption of senior preferred shares of the Department of the Treasury;

(B) provide for the cancellation of the warrants for the purchase of common stock of the enterprises issued to the Department of the Treasury; and

(C) provide for the appropriate level of compensation to the Federal Government for the financial support and commitment provided to the enterprises.

(b) RULE OF CONSTRUCTION.—Nothing in this section may be construed to prevent or prohibit the reorganization of the enterprises into separate, unaffiliated corporate entities one of which is organized as an entity to act as an approved private credit enhancer as provided in subsection (a)(3)(A) and the other of which is organized as an entity to act as an issuer or securities as provided in subsection (a)(3)(B).
Subtitle B—Limitations on Authority During Conservatorships

SEC. 421. LIMITATIONS ON ENTERPRISE AUTHORITY.

(a) PORTFOLIO LIMITATIONS.—Subtitle B of title XIII of the Housing and Community Development Act of 1992 (12 U.S.C. 4611 et seq.) is amended by adding at the end the following new section:

“SEC. 1369F. RESTRICTION ON MORTGAGE ASSETS OF ENTERPRISES.

“(a) Restriction.—After December 31, 2018, no enterprise shall own mortgage assets in excess of $250,000,000,000.

“(b) Definition of Mortgage Assets.—For purposes of this section, the term ‘mortgage assets’ means, with respect to an enterprise, assets of such enterprise consisting of mortgages, mortgage loans, mortgage-related securities, participation certificates, mortgage-backed commercial paper, obligations of real estate mortgage investment conduits and similar assets, in each case to the extent such assets would appear on the balance sheet of such enterprise in accordance with generally accepted accounting principles in effect in the United States as of September 7, 2008 (as set forth in the opinions and pronouncements of the Accounting Principles Board and the American Institute of Certified Public Accountants and
statements and pronouncements of the Financial Accounting Standards Board from time to time; and without giving any effect to any change that may be made after September 7, 2008, in respect of Statement of Financial Accounting Standards No. 140 or any similar accounting standard).”.

(b) GUARANTEE FEES UNDER CONSERVATORSHIP.—

Section 1327 of Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4547) is amended by adding at the end the following new subsection:

“(f) GUARANTEE FEES UNDER CONSERVATORSHIP.—

“(1) REQUIREMENT.—Subject only to paragraph (3) and notwithstanding any other provision of this section, the Director shall ensure, pursuant to the annual review conducted under paragraph (2), that while under conservatorship under section 1367 each enterprise charges a guarantee fee, in connection with any mortgage guaranteed after the date of the enactment of the Bipartisan Housing Finance Reform Act of 2018, in an amount that is not less than the amount of the guarantee fee charged by the enterprise as of the date of the enactment of such Act, as determined pursuant to the information pro-
vided pursuant to subsection (d) in the most recent annual report of the enterprise.

“(2) ANNUAL DETERMINATION.—Not less often than annually, the Director shall review the guarantee fees charged by each enterprise and determine if such fees are less than appropriate for the amount of credit risk assumed by the enterprise. If the Director determines that such fees charged by an enterprise are less than such amount, the Director shall, by order, require the enterprise to increase such fees by the lesser of—

“(A) such amount as the Director determines necessary; or

“(B) the maximum amount allowable under paragraph (3).

To determine the amount of any increase under this paragraph, the Director shall establish a pricing mechanism as the Director considers appropriate, taking into consideration pricing information from the credit risk transfer market, current market conditions, including the current market share of an enterprise, and any data collected pursuant to section 1601 of the Housing and Economic Recovery Act of 2008 (12 U.S.C. 4514a).
“(3) LIMITATION.—The amount of any increase of guarantee fees under paragraph (2) may not exceed 25 percent of the amount of such fees in effect immediately before such increase.”.

(c) CONFORMING AMENDMENTS.—The table of contents for the Housing and Community Development Act of 1992 is amended—

(1) by striking the items relating to sections 131 through 138; and

(2) by adding after the item relating to section 1369E the following new item:

“Sec. 1369F. Restriction on mortgage assets of enterprises.”.

SEC. 422. MANDATORY RISK-SHARING.

Subpart A of part 2 of subtitle A of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 is amended by adding after section 1327 (12 U.S.C. 4547) the following new section:

“SEC. 1328. MANDATORY RISK-SHARING TRANSACTIONS.

“(a) IN GENERAL.—The Director shall require each enterprise to develop and undertake transactions involving the guarantee by the enterprises of securities and obligations based on or backed by mortgages on residential real properties designed principally for occupancy of from 1 to 4 families that provide for private market participants to share or assume credit risk associated with such mortgages, as follows:
“(1) EXTENT OF BUSINESS.—The Director shall require that each enterprise engage in business that involves such transactions to the greatest extent economically feasible, taking into consideration the conservatorship of the enterprise under section 1367.

“(2) MULTIPLE TYPES OF TRANSACTIONS.—The Director shall require that in complying with paragraph (1), each enterprise undertake multiple types of the various transactions and structures described in subsection (b).

“(b) TYPES OF TRANSACTIONS.—The risk-sharing transactions referred to in subsection (a) may include transactions involving increased mortgage insurance requirements, credit-linked notes and securities, senior and subordinated security structures, and such other structures and transactions as the Director considers appropriate to increase private market assumption of credit risk.”.
TITLE V—REGULATORY
STRUCTURE
Subtitle A—FHFA

SEC. 501. BOARD OF DIRECTORS OF FEDERAL HOUSING FINANCE AGENCY.

(a) Establishment of Board.—Section 1312 of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4512) is amended—

(1) in the heading of such section, by striking “DIRECTOR” and inserting “BOARD OF DIRECTORS”; and

(2) by striking subsections (a) and (b) and inserting the following:

“(a) Establishment.—There is established the Board of Directors of the Agency, which shall serve as the head of the Agency.

“(b) Board of Directors.—

“(1) Composition of the Board.—

“(A) In general.—The Board shall be composed of 5 members who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—

“(i) are citizens of the United States; and
“(ii) have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

“(B) STAGGERING.—The members of the Board shall serve staggered terms, which initially shall be established by the President for terms of 1, 2, 3, 4, and 5 years, respectively.

“(C) TERMS.—

“(i) IN GENERAL.—Each member of the Board, including the Chair, shall serve for a term of 5 years.

“(ii) REMOVAL.—The President may remove any member of the Board for inefficiency, neglect of duty, or malfeasance in office.

“(iii) VACANCIES.—Any member of the Board appointed to fill a vacancy occurring before the expiration of the term to which that member’s predecessor was appointed (including the Chair) shall be appointed only for the remainder of the term.
“(iv) Continuation of service.—
Each member of the Board may continue
to serve after the expiration of the term of
office to which that member was appointed
until a successor has been appointed by the
President and confirmed by the Senate, ex-
cept that a member may not continue to
serve more than 1 year after the date on
which that member’s term would otherwise
expire.

“(v) Other employment prohibited.—No member of the Board shall en-
gege in any other business, vocation, or
employment.

“(2) Affiliation.—Not more than 3 members
of the Board shall be members of any one political
party.

“(3) Chair of the board.—
“(A) Appointment.—The Chair of the
Board shall be appointed by the President.

“(B) Authority.—The Chair shall be the
principal executive officer of the Agency, and
shall exercise all of the executive and adminis-
trative functions of the Agency, including with
respect to—
“(i) the appointment and supervision of personnel employed under the Agency (other than personnel employed regularly and full time in the immediate offices of members of the Board other than the Chair);

“(ii) the distribution of business among personnel appointed and supervised by the Chair and among administrative units of the Agency; and

“(iii) the use and expenditure of funds.

“(C) LIMITATION.—In carrying out any of the Chair’s functions under the provisions of this paragraph the Chair shall be governed by general policies of the Agency and by such regulatory decisions, findings, and determinations as the Agency may by law be authorized to make.

“(4) NO IMPAIRMENT BY REASON OF VACANcies.—No vacancy in the members of the Board shall impair the right of the remaining members of the Board to exercise all the powers of the Board. Three members of the Board shall constitute a quorum for the transaction of business, except that
if there are only 3 members serving on the Board because of vacancies in the Board, 2 members of the Board shall constitute a quorum for the transaction of business. If there are only 2 members serving on the Board because of vacancies in the Board, 2 members shall constitute a quorum for the 6-month period beginning on the date of the vacancy which caused the number of Board members to decline to 2.

“(5) COMPENSATION.—

“(A) CHAIR.—The Chair shall receive compensation at the rate prescribed for level I of the Executive Schedule under section 5313 of title 5, United States Code.

“(B) OTHER MEMBERS OF THE BOARD.—

The 4 other members of the Board shall each receive compensation at the rate prescribed for level II of the Executive Schedule under section 5314 of title 5, United States Code.

“(6) INITIAL QUORUM ESTABLISHED.—During any time period prior to the confirmation of at least two members of the Board, one member of the Board shall constitute a quorum for the transaction of business. Following the confirmation of at least 2
additional members of the Board, the quorum requirements of paragraph (4) shall apply.”.

(b) CONFORMING AMENDMENT.—Section 5313 of title 5, United States Code, is amended by striking “Director of the Federal Housing Finance Agency.”.

(c) REFERENCES.—After the effective date under subsection (d), any reference in a law, regulation, document, paper, or other record of the United States to the position of the Director of the Federal Housing Finance Agency shall be deemed a reference to the Board of Directors of the Federal Housing Finance Agency.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on, and apply beginning upon, the expiration of the term of the Director of the Federal Housing Finance Agency who is serving in such position as of the date of the enactment of this Act.

Subtitle B—Ginnie Mae

SEC. 511. REMOVAL FROM HUD; ESTABLISHMENT AS INDEPENDENT ENTITY.

(a) IN GENERAL.—Paragraph (2) of section 302(a) of the National Housing Act (12 U.S.C. 1717(a)(2)) is amended by striking “in the Department of Housing and Urban Development” and inserting “independent of any other agency or office in the Federal Government”.
(b) CONFORMING AMENDMENTS.—Title III of the National Housing Act (12 U.S.C. 1716 et seq.) is amended—

(1) in section 306(g)(3)(D) (12 U.S.C. 1721(g)(3)(D)), by striking “Secretary” and inserting “Association”;

(2) in section 307 (12 U.S.C. 1722), by striking “Secretary of Housing and Urban Development” and inserting “Association”; and

(3) in section 317 (12 U.S.C. 1723i)—

(A) in subsection (a)(1), by striking “Secretary of Housing and Urban Development” and inserting “Director of the Association”; 

(B) in subsection (c)(4), by striking “Secretary’s” and inserting “Director of the Association’s”; 

(C) in subsection (d)(1), by striking “Secretary’s” and inserting “Director of the Association’s”; 

(D) in the heading for subsection (f), by striking “BY SECRETARY”; and

(E) by striking “Secretary” each place such term appears and inserting “Director of the Association”.

(e) MANAGEMENT; BOARD OF DIRECTORS.—
(1) IN GENERAL.—Section 308 of the National Housing Act (12 U.S.C. 1723(a)) is amended by striking subsection (a) and inserting the following new subsection:

“(a) MANAGEMENT.—

“(1) BOARD OF DIRECTORS.—

“(A) NUMBER AND APPOINTMENT.—The Association shall be governed by a Board of Directors consisting of 5 members, who shall be appointed by the President, by and with the advice and consent of the Senate, from among individuals who—

“(i) are citizens of the United States, and

“(ii) have demonstrated technical expertise in the mortgage market and one of whom has technical expertise in the secondary mortgage market.

“(B) POLITICAL AFFILIATION.—Not more than 3 members of the Board of Directors may be members of the same political party.

“(C) TERMS.—

“(i) IN GENERAL.—Each member of the Board of Directors shall be appointed for a term of 5 years.
“(ii) INTERIM APPOINTMENTS.—Any member appointed to fill a vacancy occurring before the expiration of the term for which such member’s predecessor was appointed shall be appointed only for the remainder of such term.

“(iii) CONTINUATION OF SERVICE.—The Director and each member may continue to serve after the expiration of the term of office to which such member was appointed until a successor has been appointed and qualified.

“(2) DIRECTOR; CHAIRPERSON.—

“(A) DESIGNATION; TERM.—One of the members of the Board of Directors shall be designated by the President, at the time of appointment, to serve as Chairperson of the Board of Directors and Director of the Association for a term of 5 years, unless removed before the end of such term pursuant to subparagraph (C).

“(B) ADVICE.—The Board of Directors shall advise the Director regarding overall strategies and policies to carry out the duties and purposes of this Act.
“(C) REMOVAL.—The President may remove the Director for inefficiency, neglect of duty, or malfeasance in office.

“(3) OPERATIONS.—

“(A) BYLAWS.—Within the limitations of law, the Board of Directors shall determine the general policies which shall govern the operations of the Association, and shall have power to adopt, amend and repeal bylaws governing the performance of the powers and duties granted to or imposed upon it by law.

“(B) REQUIRED VOTES.—At the first meeting of the Board of Directors, the Board shall determine by majority vote which actions of the Association shall require a majority vote of the Board.

“(4) OFFICERS.—The Director shall select and effect the appointment of qualified persons to fill such offices of the Association as may be provided for in the bylaws. Persons appointed under the preceding sentence shall perform such executive functions, powers, and duties as may be prescribed by the bylaws or by the Board of Directors, and such persons shall be executive officers of the Association.
and shall discharge all such executive functions, powers, and duties.”.

(2) COMPENSATION.—

(A) DIRECTOR.—Section 5314 of title 5, United States Code, is amended by adding at the end the following new item:

“Director, Government National Mortgage Association.”.

(B) MEMBERS OF BOARD OF DIRECTORS.—Section 5314 of title 5, United States Code, is amended—

(i) by striking the item relating to the President of the Government National Mortgage Association, Department of Housing and Urban Development; and

(ii) by adding at the end the following new item:

“Members, Board of Directors of the Government National Mortgage Association.”.

(d) PERSONNEL.—Subsection (d) of section 309 of the National Housing Act (12 U.S.C. 1723a(d)) is amended by striking “(d)(1)” and all that follows through the end of paragraph (1) and inserting the following:

“(d) PERSONNEL.—

“(1) GINNIE MAE.—
“(A) IN GENERAL.—The Director of the Association may appoint and fix the compensation of such officers and employees of the Association as the Director considers necessary to carry out the functions of the Association. Officers and employees may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification and General Schedule pay rates.

“(B) COMPARABILITY OF COMPENSATION WITH FEDERAL BANKING AGENCIES.—In fixing and directing compensation under subparagraph (A), the Director of the Association shall consult with, and maintain comparability with, compensation of officers and employees of the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation.

“(C) PERSONNEL OF OTHER FEDERAL AGENCIES.—In carrying out the duties of the Association, the Director of the Association may use information, services, staff, and facilities of any executive agency, independent agen-
cy, or department on a reimbursable basis, with
the consent of such agency or department.

“(D) OUTSIDE EXPERTS AND CONSULTANTS.—Notwithstanding any provision of law
limiting pay or compensation, the Director of
the Association may appoint and compensate
such outside experts and consultants as such
Director determines necessary to assist the
work of the Association.”.

(c) TRANSITIONAL PROVISION.—Notwithstanding
this section and the amendments made by this section,
during the period beginning on the date of the enactment
of this Act, and ending on the date on which the Director
of the Government National Mortgage Association is ap-
pointed and confirmed pursuant to section 308 of the Na-
tional Housing Act, as amended by this section, the person
serving as the President of the Government National
Mortgage Association on that effective date shall act for
all purposes as, and with the full powers of, the Director
of the Association.

(f) REFERENCES.—On and after the date of the en-
actment of this Act, any reference in Federal law to the
President of the Government National Mortgage Associa-
tion or to such Association shall be deemed to be a ref-
ference to such Director of such Association or to such As-
sociation, as appropriate, as organized pursuant to this section and the amendments made by this section.

SEC. 512. OPTIONAL USE OF SECURITIZATION PLATFORM.

Section 306(g)(1) of the National Housing Act (12 U.S.C. 1721(g)(1)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

“(B) USE OF PLATFORM.—

“(i) AUTHORITY.—The Association may require, pursuant to a determination under clause (ii) and as a condition of a guaranty under this subsection for any eligible conventional mortgage security, that the approved issuer utilize the Platform (as such term is defined in section 202 of the Bipartisan Housing Finance Reform Act of 2018) in issuing such security.

“(ii) INITIAL DETERMINATION.—Not later than the expiration of the 24-month period beginning on the date of the enactment of this subparagraph, the Director of Ginnie Mae and the Board of the Federal Housing Finance Agency shall jointly make a determination of whether to use the Platform as provided in clause (i) and shall cause notice of such determination to be published in the Federal Register.
“(iii) FLEXIBILITY.—The Association may re-
view and revise such determination at any time
thereafter or make a determination to require or not
require utilization of the Platform as provided in
clause (i) at any time thereafter.”.

**Subtitle C—Housing Market**

**Reforms**

**SEC. 521. BASEL III LIQUIDITY COVERAGE RATIO AMEND-
MENTS.**

(a) IN GENERAL.—In implementing the Basel III Li-
quidity Coverage Ratio amendments, the Board of Gov-
ernors of the Federal Reserve System, the Federal Deposit
Insurance Corporation, and the Comptroller of the Curr-
ency may not require, as a condition for status as a high
quality liquid asset, that residential mortgage-backed se-
curities be collateralized only by (or be collateralized by
a certain percentage of) full recourse mortgage loans.

(b) DEFINITION.—The term “Basel III Liquidity
Coverage Ratio amendments” means the final rule issued
by the Comptroller of the Currency, the Board of Gov-
ernors of the Federal Reserve System, and the Federal
Deposit Insurance Corporation titled “Liquidity Coverage
Ratio: Liquidity Risk Measurement Standards”, published
SEC. 522. NOTICE OF JUNIOR MORTGAGE OR LIEN.

With respect to the dwelling of a borrower that serves as security for a securitized senior mortgage loan, if the borrower enters into any credit transaction that would result in the creation of a new mortgage or other lien on such dwelling, the creditor of such new mortgage or other lien shall notify the servicer of the senior mortgage loan of the existence of the new mortgage or other lien.

SEC. 523. LIMITATION ON MORTGAGES HELD BY LOAN SERVICERS.

(a) LIMITATION.—Neither the servicer of a residential mortgage loan, nor any affiliate of such servicer, may own, or hold any interest in, any other residential mortgage loan that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on the same dwelling or residential real property that is subject to the mortgage, deed of trust, or other security interest that secures the residential mortgage loan serviced by the servicer.

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

(1) AFFILIATE.—The term “affiliate” has the meaning given such term under section 104(g) of the Gramm-Leach-Bliley Act (15 U.S.C. 6701(g)).

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

(3) Servicer.—The term “servicer” has the meaning provided such term in section 129A of the Truth in Lending Act, except that such term includes a person who makes or holds a residential mortgage loan (including a pool of residential mortgage loans) if such person also services the loan.

(e) Interests.—For purposes of subsection (a), ownership of, or holding an interest in, a residential mortgage loan includes ownership of, or holding an interest in—

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

(2) any security based on or backed by a pool of residential mortgage loans that contains such residential mortgage loan.

(d) Effective Date.—This section shall apply—

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

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

SEC. 524. GNMA PROHIBITION RELATING TO USE OF POWER OF EMINENT DOMAIN.

Subsection (g) of section 306 of the National Housing Act (12 U.S.C. 1721(g)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

“(5)(A) Notwithstanding any other provision of law, the Association may not guarantee any trust certificate or other security that is based on or backed by any mortgage that is secured by a structure or dwelling unit that is located within a county that contains any structure or dwelling unit that secures or secured a residential mortgage loan which mortgage loan was obtained by the State during the preceding 120 months by exercise of the power of eminent domain.

“(B) For purposes of this paragraph, the following definitions shall apply:
“(i) The term ‘residential mortgage loan’ means a mortgage loan that is evidenced by a promissory note and secured by a mortgage, deed of trust, or other security instrument on a residential structure or a dwelling unit in a residential structure. Such term includes a first mortgage loan or any subordinate mortgage loan.

“(ii) The term ‘State’ includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, and includes any agency or political subdivision of a State.”.

TITLE VI—MISCELLANEOUS AND CONFORMING AMENDMENTS

SEC. 601. CONFORMING AMENDMENT TO LIMITATION ON Ginnie Mae Commitment Authority for Government-Insured Mortgage Securities.

Section 306(g)(2) of the National Housing Act (12 U.S.C. 1721(g)(2)) is amended—

(1) in the first sentence, by inserting “for securities based on or backed by Government-insured mortgages” after “guarantees under this sub-

section”; and
1 (2) in the second sentence, by inserting “for securities based on or backed by Government-insured mortgages” after “by the Association”.

SEC. 602. CONFORMING AMENDMENTS TO SECURITIES ACT OF 1933.

(a) EXEMPTED SECURITIES.—Section 3(a) of the Securities Act of 1933 (15 U.S.C. 77c(a)) is amended by adding at the end the following new paragraph:

“(15) Any qualified security, as such term is defined in section 221 of the Bipartisan Housing Finance Reform Act of 2018.”.

(b) REMOVAL OF CREDIT RISK RETENTION REFERENCE.—Section 27B of the Securities Act of 1933 (15 U.S.C. 77z–2a) is amended by striking subsection (d).

SEC. 603. CONFORMING AMENDMENTS TO TITLE 18, UNITED STATES CODE.

(a) FALSE ADVERTISING.—Section 709 of title 18, United States Code, is amended by inserting after “a Federal Home Loan Bank; or” the following: “Whoever uses the words ‘National Mortgage Data Repository’ or such other name as the Director of the Federal Housing Finance Agency may establish in the charter of the repository or any combination of words that appears to indicate that such use of the term conflicts with the exclusive operation of the repository created by subtitle C of title II of
the Bipartisan Housing Finance Reform Act of 2018 as
a business name or any part of a business name, or falsely
publishes, advertises, or represents by any device or sym-
bol or other means reasonably calculated to convey the im-
pression that he or it is the repository created by such
part; or”.

(b) FRAUD AND FALSE STATEMENTS.— Chapter 47
of title 18, United States Code, is amended—

(1) by adding at the end the following new sec-
tion:

“§ Sec. 1041. Information security; false statements
and concealment of facts related to the
Bipartisan Housing Finance Reform Act
of 2018

“Whoever, with regard to any mortgage-related docu-
ment (as such term is defined in section 202 of the Bipar-
tisan Housing Finance Reform Act) or the registration of
any document or any interest in any such document pur-
suant to that Act, makes any false statement or represen-
tation of fact, knowing it to be false, or knowingly con-
ceals, covers up or fails to disclose any material fact the
disclosure of which is required by such Act or regulation,
shall be fined under this title, or imprisoned not more than
five years, or both.”; and
in the table of contents for such chapter, by
inserting after the item relating to section 1040 the
following:

‘‘1041. Information security; false statements and concealment of facts related
to the Bipartisan Housing Finance Reform Act of 2018.’’.

SEC. 604. CONFORMING AMENDMENT TO THE INVESTMENT
COMPANY ACT OF 1940.

Section 3(c)(5)(C) of the Investment Company Act
of 1940 (15 U.S.C. 80a–3(c)(5)) is amended by inserting
before the period the following: ‘‘, including risk-sharing
transactions, qualified securities, and any other mortgage-
related instruments or products created pursuant to the
Bipartisan Housing Finance Reform Act of 2018 or
amendments made by such Act’’.

SEC. 605. FAIR LENDING LAWS.

Nothing in this Act or the amendments made by this
Act may be construed to amend or modify any require-
ments or restrictions applicable to a private credit
enhancer or other market participant under the Fair
Housing Act (42 U.S.C. 3601 et seq.) or the Equal Credit