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# The Past and Current Politics of Housing Finance and the Future of Fannie Mae, Freddie Mac, and Homeownership in the United States

By James H. Carr and Katrin B. Anacker

On May 15, 2014, the US Senate Banking Committee approved legislation to reform the nation's housing finance system. The bipartisan proposal drafted by Senate Banking Committee Chairman Senator Tim Johnson (D-S.D.) and Ranking Senate Banking Committee Member Senator Mike Crapo (R-Idaho) would implement the most extensive restructuring of the nation's housing finance system since the Great Recession.<sup>1</sup> Changes would include winding down parts of the housing finance infrastructure that were established as far back as the Great Depression, potentially bringing the 70-year-long era of the relatively high homeownership rate to an end.

Housing finance reform is long overdue. During the inflating of the house price bubble in the early and mid-2000s the US mortgage market became saturated with poorly underwritten and unsustainable, high-cost loans. In the aftermath of the collapse of the mortgage market, many lenders have responded with overly rigid underwriting standards, originating loans to borrowers with credit scores and down payments substantially higher than historic norms. Currently, mortgage originations are at their lowest level in 17 years, resulting in a decrease of originated mortgages<sup>2</sup> and thus a decrease in the homeownership rate for households headed by young adults under 40 years of age from nearly 50 percent in the mid-2000s to 42 percent in 2013.<sup>3</sup> Also, home purchase loans to Blacks/African Americans and Hispanics/Latinos have decreased by 55 percent and 45 percent, respectively, between 2001 and 2012.<sup>4</sup>

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Rather than focusing on the dearth of mortgage lending, however, suggested legislation in both the US Senate and the House of Representatives prioritizes winding down the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac), channeling their business and thus profits to private financial firms. The justification for the termination of Fannie Mae and Freddie Mac is that greater levels of private capital in the housing finance system will protect US taxpayers from future bailouts. Interestingly, private capital was not in short supply in the years leading up to the implosion of the housing finance market. Indeed, "the market share of private-label mortgage-backed securities issuers grew from roughly 8 percent to 12 percent in 2003 to 38 percent in 2006."<sup>5</sup> Indeed, estimates conclude that mortgages will become *more*, not *less*, costly with enactment of any of the major bills currently pending in the House or Senate that include the elimination of Fannie Mae and Freddie Mac.<sup>6</sup>

The lack of focus on access to and affordably of mortgages is a shift in public policy dating back to the early 1930s, when the Federal Housing Administration, Federal Home Loan Banks, and Fannie Mae were established. These institutions are a major reason for the United States becoming a nation of homeowners. However, over the past several decades, special preferences, as well as the exceptional profits enjoyed by the government-sponsored enterprises (GSEs) have increasingly become a target for private firms.

This article examines the establishment and the characters of Fannie Mae and Freddie Mac, the evolution of more than two decades of actions to reduce or remove their special preferences, the current status of Fannie Mae and Freddie Mac, and the current ongoing housing finance reform debates on Capitol Hill.

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## The Ascent of Fannie Mae and Freddie Mac

In 1938, President Franklin D. Roosevelt established Fannie Mae to encourage the flow of credit to homebuyers, homebuilders, and financial institutions,<sup>7</sup> just four years after the Federal Housing Administration (FHA) had been established.<sup>8</sup> Prior to the FHA, down payment requirements were large, oftentimes more than 50 percent; repayment schedules were short, typically five years; and balloon payments at the end of the loan term were also large.<sup>9</sup> Thus, the establishment of Fannie Mae and FHA made homeownership affordable for millions of US households.<sup>10</sup>

Three decades later, in 1968, Congress split Fannie Mae into two units: One that bought government-issued loans and would remain a government entity, called Ginnie Mae,<sup>11</sup> and one that became the privatized Fannie Mae, from then on owned by stockholders, although its public mission continued.<sup>12</sup> Congress had become concerned about Fannie Mae's increased debt, and thus a potential government liability, and about increasing interest rates and thus a decrease in housing construction and housing finance activity.<sup>13</sup>

In 1970, Congress, in response to a request by the savings and loan industry, passed a law that became part of the Federal Home Loan Bank System, then the regulator of the savings and loan industry.<sup>14</sup> Fannie Mae securitized and bundled mortgages originated by banks, and Freddie Mac securitized and bundled mortgages originated by savings and loans, expanding the secondary market for mortgages.<sup>15</sup>

Securitization revolutionized home mortgage finance by wedding Wall Street with Main Street. It tapped huge new pools of capital across the nation and abroad to finance home mortgages in the United States. Lenders, in a continuous cycle, could make loans, sell those loans for securitization, and then plow the sales proceeds into a new batch of loans, which in turn could be securitized. Securitization also solved an age-old problem for banks. In the past, banks had held home mortgages until they were paid off, which meant that banks were financing long-term mortgage loans with short-term demand deposits. This "lending long and borrowing short" destabilized banks. Securitization solved that problem by allowing banks to move mortgages off their books in exchange for upfront cash.<sup>16</sup>

Fannie Mae and Freddie Mac were granted several advantages that were perceived, depending on one's point of view, as preferential or special treatment,<sup>17</sup> unfair competition,<sup>18</sup> subsidies,<sup>19</sup> or simply assistance fulfilling their charters.<sup>20</sup> These advantages were extensive and included:

- an implicit federal guarantee;<sup>21</sup>
- exemption from state and local taxes;<sup>22</sup>
- the low minimum capital requirement of 2.5 percent of total assets plus 0.45 percent of off-balance sheet items,<sup>23</sup> the former standard being less than half the capital held by most banks;<sup>24</sup>
- the commitment of the US Treasury to buy up to \$2.25 billion of their debt securities in case of need;<sup>25</sup>
- federal charters that could preempt certain state laws;<sup>26</sup>
- exemptions from having to register their securities under the Securities Act of 1933 and the Securities Exchange Act of 1934<sup>27</sup> and paying registration fees for issued securities and from financial reporting and disclosure rules to the Securities and Exchange Commission (SEC);<sup>28</sup>
- exemptions from SEC oversight;<sup>29</sup>
- the allowance to obtain longer-term fixed-rate financing and thus lower interest-rate risk compared to any other lenders, "barely above the rate paid by the Treasury"<sup>30</sup>;
- the eligibility of Fannie Mae's securities for unlimited investment by federally regulated lenders;<sup>31</sup>
- the exemption from the Gramm-Leach-Bliley financial privacy restrictions;<sup>32</sup> and
- the privilege of having government appointees on their boards.<sup>33</sup>

In return for the preferential or special treatment by the government, Fannie Mae and Freddie Mac were tasked to support housing finance by lowering the cost of mortgage credit for many borrowers<sup>34</sup> and by purchasing conforming mortgages, pooling and insuring them against default, and then issuing bonds or securitized claims to the public,<sup>35</sup> and to absorb some risk in the mortgage market.<sup>36</sup> Starting in 1992, Fannie Mae and Freddie Mac were also required to meet affordable housing goals set by the US Department of Housing and Urban Development, first established in the Federal Housing Enterprise Safety and Soundness Act of 1992 and later modified.<sup>37</sup>

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## Technocratic Arguments against Fannie Mae and Freddie Mac

Before 2008 most arguments launched against the two GSEs were technocratic and small scale, seeking mostly to decrease or offset the preferential or special treatment of the two GSEs or to require Fannie Mae and Freddie Mac to pay fees to the government to compensate for the preferential or special treatment so the playing field would be more level in terms of the cost of business between the GSEs and private firms. Only a few critics presented ideological arguments at a larger scale against Fannie Mae and Freddie Mac to the point of suggesting that they should not exist at all.<sup>38</sup> “Most of Fannie Mae’s competitors wanted the company to be more tightly regulated and its business powers to be limited and strictly defined (though a few favored full privatization). And the Federal Reserve and Treasury, at least initially, were focused on constraining Fannie Mae’s size and risk taking.”<sup>39</sup> More specifically, arguments were that government sponsorship distorts the housing market<sup>40</sup> and that it “impairs market discipline, enriches shareholders, and promotes artificial growth and excessive risk taking.”<sup>41</sup> Another argument was that the implicit government guarantee was ultimately supported “by the US taxpayer and that it should be formally abandoned.”<sup>42</sup> Thus, Fannie Mae should be privatized, “along the model of the successful privatization of Sallie Mae [...], a former GSE that is now a fully-private corporation.”<sup>43</sup>

At a smaller, technocratic scale, many critics took issue with Fannie Mae’s and Freddie Mac’s accounting approaches<sup>44</sup> based on their interpretations of rules and regulations,<sup>45</sup> pointing out that they made it appear that they were adequately capitalized<sup>46</sup> to disguise the operational risk,<sup>47</sup> to disguise insolvency by employing certain hedging strategies that prevent a mismatch between interest payments owed versus received,<sup>48</sup> or to hedge against interest rate swings.<sup>49</sup> In addition, many critics pointed out the pay and benefits for Fannie Mae’s and Freddie Mac’s executives, which were at the industry standard level, not at the government level.<sup>50</sup>

For decades many strategies had been launched to decrease or offset the preferential or special treatment of the two GSEs or to privatize them.<sup>51</sup> For example, the Reagan administration suggested imposing user fees on borrowings of Fannie Mae to compensate for their ability to borrow at a lower rate in the capital

markets than others.<sup>52</sup> However, these fees were never implemented.<sup>53</sup> In 1995, the Congressional Budget Office (CBO) proposed charging Fannie Mae fees “equaling half the estimated benefits they received from their government backing. The fees would have raised about \$700 million a year for the government,” but these fees were never imposed either.<sup>54</sup> Other suggestions to decrease or offset the preferential or special treatment were:

- limiting the size of Fannie Mae’s and Freddie Mac’s retained mortgage portfolios;<sup>55</sup>
- freezing the conforming loan value to limit the size of mortgages they could buy, thereby limiting their size;<sup>56</sup>
- raising their capital requirements;<sup>57</sup>
- strengthening their subordinated debt programs;<sup>58</sup>
- requiring a complete hedging of their interest rate risk;<sup>59</sup>
- requiring them to obtain ratings from rating agencies for their debt issuances that discount the implied guarantee;<sup>60</sup>
- chartering additional GSE competitors, such as the Federal Home Loan Banks, to spread the risk that they pose as well as to erode their profits;<sup>61</sup>
- enhancing the Office of Federal Housing Enterprise Oversight (OFHEO) stress test to measure their interest rate risk;<sup>62</sup>
- regulating them as a public utility;<sup>63</sup>
- stripping them of some or their unique privileges to signal to the market that the implied guarantee had been weakened;<sup>64</sup> or
- “truly privatizing” them.<sup>65</sup>

Fannie Mae and Freddie Mac responded to these arguments through massive lobbying efforts and many voluntary affordable housing and philanthropic initiatives since the mid-1990s.<sup>66</sup> For example, Fannie Mae earmarked \$1 trillion to be spent on affordable housing between 1994 and 2000 through its Trillion Dollar Home initiative.<sup>67</sup> The goal was to finance 10 million homes for underserved borrowers through national consumer education efforts, Fannie Mae’s regional partnership offices, new mortgage products, and a streamlined application process, among other efforts.<sup>68</sup> Fannie Mae also launched the Fannie Mae Foundation, a national housing-focused foundation with an initial grant of \$350 million in Fannie Mae stock and an annual operating budget of more than \$100 million.<sup>69</sup>

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Freddie Mac established the Hoops for the Homeless program to benefit homeless service organizations in the Washington, DC area.

But neither powerful lobbying nor voluntary affordable housing efforts were sufficient to quiet the critics of the GSEs. FM Watch, later renamed FM Policy Focus,<sup>70</sup> which was established in 1999 as a loose coalition of financial companies including Chase Mortgage, Wells Fargo, PNC Financial Service Groups Inc., PNC Mortgage, Household Financial, Household International Inc., General Electric, GE Capital Service, and AIG, started monitoring Fannie Mae and lobbying against its role in the mortgage market.<sup>71</sup>

Fannie Mae's lobbying efforts ended after it had been placed in conservatorship in September 2008.<sup>72</sup> Around that time many critics elevated their arguments from a small technocratic scale to a bigger ideological level, suggesting the elimination of Fannie Mae,<sup>73</sup> as we will discuss later in greater detail.

### **The Descent of Fannie Mae and Freddie Mac**

The descent of the two GSEs began when first Freddie Mac and then Fannie Mae were found to have engaged in accounting improprieties in the early 2000s.<sup>74</sup> These accounting problems energized GSE critics, who felt vindicated that some of their major concerns had now come to light.<sup>75</sup>

The subprime, foreclosure, and economic crises, which started in 2007, placed enormous additional pressures on Fannie Mae and Freddie Mac. Although the GSEs had largely remained on the sidelines with respect to the purchase and securitization of subprime loans that were at the center of the foreclosure crisis,<sup>76</sup> they did purchase bonds backed by poorly underwritten subprime loans and later securitized high-risk Alt-A prime mortgages that would eventually contribute to hemorrhaging losses for both GSEs.<sup>77</sup> The result was that both GSEs, similar to most Wall Street companies, required substantial financial support from the government to continue operating.

In September 2008, the US Department of the Treasury and the Federal Housing Finance Agency (FHFA) placed Fannie Mae and Freddie Mac into conservatorship,<sup>78</sup> "a process in which the government

holds a failed financial institution with the purpose of restoring the firm to solvency."<sup>79</sup> First, the implicit federal guarantee became explicit when the federal government guaranteed principal and interest payments on the two GSEs' debt- and mortgage-backed bonds.<sup>80</sup> Second, the government allowed access to the discount window of the Federal Reserve.<sup>81</sup> Third, the government established Preferred Stock Purchase Agreements, subject to caps,<sup>82</sup> which allowed the Treasury to receive senior preferred equity shares, paying 10 percent per year (plus unspecified quarterly payments) that not only protected taxpayers but also allowed them to receive profits, leaving common and preferred shareholders to bear losses first.<sup>83</sup> Fourth, the government received stock warrants, that is, purchase rights, allowing it to purchase up to 79.9 percent of their common shares for less than \$1 per share.<sup>84</sup> Fifth, the government allowed both GSEs direct borrowing privileges under the new Secured Lending Credit Facility through the Housing and Economic Recovery Act of 2008 in case private debt markets dried up.<sup>85</sup> Sixth, the government established a temporary program to purchase mortgage-backed securities of the two GSEs.<sup>86</sup> Seventh, the government replaced both CEOs.<sup>87</sup>

Since then, policymakers have discussed the role of Fannie Mae and Freddie Mac in the housing and homeownership market.<sup>88</sup> Although many earlier proposals suggested a reduced role for both GSEs, later proposals suggested eliminating them.<sup>89</sup> Fannie Mae and Freddie Mac had become political pariahs, based on the surge of ideological arguments launched against them.

### **Ideological Arguments against Fannie Mae and Freddie Mac**

Before 2008 only a few critics presented ideological arguments at a larger scale against Fannie Mae and Freddie Mac, as discussed previously. After 2008 the number of critics who launched ideological broad-brush arguments against Fannie Mae and Freddie Mac increased.<sup>90</sup> One often-used ideological argument was taxpayer protection.<sup>91</sup> "Only privatization will protect the federal government from the serious risks posed by the implied guarantee and it should not be dismissed merely because it has not yet gained traction in Washington."<sup>92</sup> Although Fannie Mae and Freddie Mac received \$187.4 billion from the government after 2008, they have paid the Treasury \$192 billion as of

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February 2014.<sup>93</sup> A simple calculation shows that both firms have started generating profits and have repaid the government more in dividends than they received in bailout funds, which has led some to conclude that as Fannie Mae and Freddie Mac have turned profitable, they should be taken out of conservatorship and be allowed to operate again as shareholder owned, quasi-government institutions. Although AIG and GM repaid their government bailout monies in full in 2013<sup>94</sup> and were allowed to return to doing business as usual, Fannie Mae and Freddie Mae returned *more* money than they had received but are nevertheless being wound down.<sup>95</sup>

Interestingly, after 2008, the number of housing finance reform proposals that have called for the elimination of Fannie Mae have increased, including proposals from progressive think tanks,<sup>96</sup> although other think tanks have launched proposals on how to fix them.<sup>97</sup> Reform proposals have been issued by U.S. Representative Jeb Hensarling (R-TX),<sup>98</sup> U.S. Senators Bob Corker (R-Tenn.) and Mark Warner (D-VA),<sup>99</sup> U.S. Senators Tim Johnson and Mike Crapo,<sup>100</sup> and U.S. Representative Maxine Waters (D-CA).<sup>101</sup>

Interestingly, Fannie Mae's shareholders have been treated differently than shareholders of other companies that had been bailed out by the government. In June 2010 the FHFA directed Fannie Mae to delist its common and preferred stock from the New York Stock Exchange, stating that "[a] voluntary delisting at this time simply makes sense and fits with the goal of a conservatorship to preserve and conserve assets."<sup>102</sup> This move caused shares to decrease from around \$1 to about 30 cents per share. Ralph Nader has pointed out that requiring Fannie Mae to pay all future profits in the form of dividends, based on an amendment enacted in 2012, will prevent it from recovering and building up capital reserves.<sup>103</sup> "Fannie and Freddie shareholders were repeatedly told that the preferred and common stock would have value only if anything remained after taxpayers were fully repaid for the rescue."<sup>104</sup> However, this assessment changed over time.

In the spring of 2013, Paulson stated:

Recognizing the improved conditions, the Obama administration produced a budget in April 2013 that projected that if the GSEs remained in current

form, they would repay in the coming decade all of the \$187 billion invested in them by Treasury, as well as pay a profit in dividends of \$50 billion more. That's welcome news, but it comes with a downside: Now any attempt to reform the GSEs will appear to cost the Treasury in the short term. Thus, ironically, as the market heals, the government has a major disincentive to make changes in the very system that brought us to near ruin.<sup>105</sup>

Interestingly, in December 2010, the Obama administration had stated a "commitment to ensure existing common equity holders will not have access to any positive earnings from the G.S.E.'s [sic] in the future,"<sup>106</sup> called a "net worth sweep" by some,<sup>107</sup> in a memorandum that was, interestingly, only released in February 2014.<sup>108</sup> In the same vein, in August 2012, Treasury and FHFA amended the senior preferred stock agreement.

Effective January 1, 2013, Fannie Mae would be required to remit to Treasury all of its retained earnings in excess of an applicable "capital reserve amount" (initially set at \$3 billion, dropping to zero in 2018). Incredibly, a 10 percent dividend on non-repayable draws pushed artificially high by conservative accounting had not been enough to keep Fannie Mae from beginning to rebuild its capital. To ensure that it could not continue to do so, Treasury changed the already crushingly punitive terms of its senior preferred stock agreement to make them confiscatory: in the future, the required dividend on the \$1 billion in senior preferred stock the company had been given in 2008 would be "everything you ever earn."<sup>109</sup>

These developments are an interesting departure in comparison to arguments made previously. For example, in a Congressional hearing in October 2003, Alan Greenspan, the Chairman of the Board of Governors of the Federal Reserve System, stated that "I feel uncomfortable when their [i.e., Fannie Mae and Freddie Mac] profit is made by subsidies. [...] If the Congress decides that it is perfectly all right for a significant part of the subsidy to go to shareholders, that is a judgment for the Congress to make."<sup>110</sup>

Fannie Mae was placed in conservatorship, not receivership, the latter being the equivalent of

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bankruptcy. Interestingly, a current lawsuit launched by Perry Capital against the government from shareholders of Fannie Mae (and Freddie Mac) challenges the decision of the administration to not share profits with the shareholders “saying that Treasury was flouting the rule of law by keeping the companies’ profits.”<sup>111</sup> Similarly, Ralph Nader has argued that Fannie Mae common shareholders “deserve a chance to recover some of the value of their stock.”<sup>112</sup>

### **The Current Housing Finance ‘Reform’ Debate**

As already discussed previously, arguments launched against the two GSEs were technocratic and small scale earlier and ideological and large scale later. Arguments against them particularly grew with the rise in private label securitizations that placed private firms in direct competition with Fannie Mae and Freddie Mac. Arguments against the GSEs reached their zenith after the accounting scandals and, ultimately, the conservatorship of both agencies. Currently, arguments against the existence of the GSEs have crystallized across the political aisle, where both progressive and conservative policymakers argue that the GSEs have outlived their usefulness.

The major reform proposals discussed in both the US Senate and the House of Representatives suggest eliminating Fannie Mae and Freddie Mac, although they differ from one another in terms of the future path of Fannie Mae and Freddie Mac.

The House bill, sponsored by the House Financial Services Committee Chair Jeb Hensarling (R-TX) and titled the Protect American Taxpayers and Homeowners (PATH) Act, would replace Fannie Mae and Freddie Mac with an entirely private housing finance system without any government backing with the exception of a modest continuing role for FHA. There is widespread agreement among housing finance analysts that the suggested shift towards the private sector in the housing finance system would greatly diminish the use of the 30-year fixed rate mortgage as the principal mortgage product and also eliminate the To Be Announced (TBA) market.<sup>113</sup> The bill will likely result in down payments of less than 20 percent being rare. Also, multifamily housing financing that is currently provided by Fannie Mae and Freddie Mac would not be replaced. Finally, the bill would provide inadequate countercyclical market support in times of economic downturns.<sup>114</sup>

The irony of the proposed PATH Act is that it removes the government backstop for conventional mortgages. However, by failing to explicitly recognize (and pay for) the government’s willingness to step in and potentially bail out financial firms that pose a systemic risk to the US financial markets, the PATH Act maintains the implicit government guarantee that has been in place since Fannie Mae was established. That implicit guarantee allows lenders to pocket profits in good times and send the losses to the US taxpayers in periods of financial crises.

The Senate bill, that is, the Johnson-Crapo GSE reform bill, also proposes to wind down Fannie Mae and Freddie Mac, but it would replace them with a newly established Federal Mortgage Insurance Corporation (FMIC) that would provide but charge for a government guarantee for private securitizations. This government guarantee is accessed only after the first 10 percent of losses are absorbed by private investors. Other positive aspects of the Senate bill include greatly expanded funding for the currently unfunded National Housing Trust Fund and the Capital Magnet Fund, the creation of a Market Access Fund to support research and development of products to serve more eligible borrowers, multifamily provisions that support the financing of affordable rental housing servicing standards that would require loss mitigation and affordable loan modifications, and an office to monitor access to mortgages in underserved markets and provide technical assistance and best practices information.

However, there are many challenges to this Senate bill. Most importantly, mortgage interest rates would increase from an estimated 45 basis points to more than 2 percentage points.<sup>115</sup> In part, this is due to the 10 percent loss reserves required to be held by private lenders. Interestingly, during the Great Recession the loss by private securitizations and Fannie Mae and Freddie Mac combined was less than 5 percent.<sup>116</sup> The result of the Senate bill would be that interest rates will be unnecessarily high as firms hold capital far above the level that is likely ever to be needed in the event of a financial downturn.

In addition, access to credit would be further restricted by requiring that all loans meet the recently released Qualified Mortgage (QM) rule plus 3.5 or 5 percent down payment. The QM rule establishes the standards for mortgages that are presumed to meet the

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borrower's ability-to-pay requirement that was established in the Dodd-Frank Wall Street Reform and Consumer Protection Act. Johnson-Crapo also proposes to eliminate the affordable housing goals of the GSEs.

Given that the housing finance market's current major challenge is the dearth of lending, focusing first on how to best enable private financial firms to benefit from the elimination of Fannie Mae and Freddie Mac represents a major shift in priority focus in federal homeownership policy over the past half century. Although winding down Fannie Mae and Freddie Mac might be an appropriate step for housing finance reform, there are a variety of alternative proposals that might better meet the needs of borrowing public, and particularly low- and moderate-income and wealth-constrained households for affordable mortgages while also increasing private capital.<sup>117</sup>

One of these alternative suggestions was made by the Center for Responsible Lending (CRL), which has proposed that Fannie Mae and Freddie Mac be replaced by a mortgage finance cooperative that resembles the model of the Federal Home Loan Bank system.<sup>118</sup> The Federal Home Loan Banks, established in 1932, are not well-known by the public, in part because they were the only segment of the housing finance system that neither failed nor required a taxpayer bailout. CRL's proposal would bring private firms to the housing finance table as cooperative owners of a new quasi-government institution. The mission of this new entity would be the promotion of safe, affordable, and sustainable mortgages to meet the needs of the nation's diverse borrower population.

## Conclusion

For the past 70 years, homeownership has been the cornerstone of the American Dream, serving as the single largest and most sustainable source of wealth building, pride, and accomplishment for many Americans. Current proposals pending in Congress will limit access to homeownership and, by extension, reduce wealth building and economic mobility, thus impacting the US economy. The current battle lines are drawn between those who prioritize how best to bring private capital to the market and those who are most concerned with improving access and affordability to mortgage finance. Finding a solution that achieves both goals currently seems a long way away.

## Notes

1. US Senate Banking Committee, *Section-by-Section of Senate Banking Committee Leaders' Bipartisan Housing Finance Reform Draft* (Congress of the United States, 2014).
2. Kathleen M. Howley, Zachary Tracer, and Heather Perlberg, "Lending Plunges to 17-Year Low as Rates Curtail Borrowing," *Bloomberg.com*, April 14, 2014.
3. William R. Emmons and Bryan J. Noeth, "Housing Crash Continues to Overshadow Young Families' Balance Sheets," *In the Balance* 7 (2014) 1–6.
4. Laurie Goodman, Jun Zhu, and Taz George, "Where Have All the Loans Gone? The Impact of Credit Availability on Mortgage Volume," (*Urban Institute Housing Finance Policy Center Commentary*, March 13, 2014).
5. David Min, *FCIC Commissioner Peter Wallison and Other Commentators Rely on Flawed Data from Edward Pinto to Misplace the Causes of the 2008 Financial Crisis* (Center for American Progress, 2011) 16.
6. Nick Timiraos, "How Much Will Mortgage Rates Rise in Fannie, Freddie Overhaul?" *Wall Street Journal.com*, April 28, 2014.
7. David Reingold and Joe Bolinger, "Federal Government," in Andrew T. Carswell (ed.), *The Encyclopedia of Housing* (Sage Publications, Inc., 2012).
8. Lawrence Q. Newton, "Fannie Mae," in Willem van Vliet (ed.), *The Encyclopedia of Housing* (Sage Publications, Inc., 1998) 171–172.
9. Alex Schwartz, *Housing Policy in the United States* (Routledge, 2010).
10. James A. Johnson, *Showing America a New Way Home: Expanding Opportunities for Home Ownership* (Jossey-Bass, 1996).
11. Congressional Budget Office, *Controlling the Risks of Government-Sponsored Enterprises* (Congress of the United States, 1991).
12. Kelsie Brandlee, *Promoting Homeownership in the United States: The Rise and Fall of Fannie Mae and Freddie Mac* (University of Iowa, 2011).
13. James Hagerty, *The Fateful History of Fannie Mae: New Deal Birth to Mortgage Crisis Fall* (The History Press, 2012).
14. Thomas H. Stanton "Government-Sponsored Enterprises," in Andrew T. Carswell (ed.), *The Encyclopedia of Housing* (Sage Publications, Inc., 2012).
15. Peter J. Wallison "Eliminating the GSEs as Part of Comprehensive Housing Finance Reform," in Martin Neil Bailly (ed.), *The Future of Housing Finance* (Brookings Institution Press, 2011).
16. Kathleen C. Engel and Patricia A. McCoy, *The Subprime Virus: Reckless Credit, Regulatory Failure, and Next Steps* (Oxford University Press, 2011) 18.
17. David Reiss, *Fannie Mae, Freddie Mac, and the Future of Federal Housing Finance Policy: A Study of Regulatory Privilege* (CATO Institute, 2011).
18. However, note the following argument: "Painting Wall Street and the GSEs as competitors fails to account for the fact that Wall Street firms and their affiliates were among the largest

- mortgage sellers to Fannie and Freddie. Companies such as Citibank, Chase, Lehman, Morgan Stanley, and Goldman Sachs all did significant business selling mortgages to the GSEs.” (p.9). Mark Calabria, “Fannie, Freddie, and the Subprime Mortgage Market” *CATO Institute Briefing Papers*, May 7, 2011.
19. Thomas H. Stanton, “The Life Cycle of the Government-Sponsored Enterprise: Lessons for Design and Accountability,” *Public Administration Review* 67.5 (2007) 837–845.
  20. Timothy Howard, *The Mortgage Wars: Inside Fannie Mae, Big-Money Politics, and the Collapse of the American Dream* (McGrawHill Education, 2014).
  21. Martin Neil Baily, “Foreword,” in Martin Neil Baily (ed.), *The Future of Housing Finance* (Brookings Institution Press, 2011).
  22. Robert C. Pozen, “Toward a Three-Tier Market for U.S. Home Mortgages,” in Martin Neil Baily (ed.), *The Future of Housing Finance* (Brookings Institution Press, 2011).
  23. Engel and McCoy (2011), *supra* n.16.
  24. Mark Zandi, *Financial Shock: Global Panic and Government Bailouts—How We Got Here and What Must Be Done to Fix It* (FT Press, 2009).
  25. Karen Dynan and Ted Gayer, “The Government’s Role in the Housing Finance System: Where Do We Go from Here?” in Martin Neil Baily (ed.), *The Future of Housing Finance* (Brookings Institution Press, 2011).
  26. Richard Scott Carnell, “Handling the Failure of a Government-Sponsored Enterprise,” 80 *Washington Law Review* (2005) 565–642.
  27. Joseph E. Stiglitz, Jonathan M. Orszag, and Peter R. Orszag, “Implications of the New Fannie Mae and Freddie Mac Risk-based Capital Standard,” *Fannie Mae Papers* 1.2 (2002).
  28. Congressional Budget Office, *Effects of Repealing Fannie Mae’s and Freddie Mac’s SEC Exemptions* (Congressional Budget Office, 2003).
  29. Rob Alford, *What Are the Origins of Freddie Mae and Fannie Mae?* (George Mason University History News Network, 2003).
  30. Raghuram G. Rajan, *Fault Lines: How Hidden Fractures Still Threaten the World Economy* (Princeton University Press, 2010) 34.
  31. David Reiss, “The Federal Government’s Implied Guarantee of Fannie Mae and Freddie Mac’s Obligations: Uncle Sam Will Pick Up the Tab,” 42 *Georgia Law Review* (2007–2008) 1025.
  32. *Id.*
  33. Rajan (2010), *supra* n.30.
  34. Johnson (1996), *supra* n.10, and Engel and McCoy (2011), *supra* n.16.
  35. Dan Immergluck, *Foreclosed: High-Risk Lending, Deregulation, and the Undermining of America’s Mortgage Market* (Cornell University Press, 2009).
  36. Simon Johnson and James Kwak, *13 Bankers: The Wall Street Takeover and the Next Financial Meltdown* (Pantheon Books, 2010).
  37. Engel and McCoy (2011), *supra* n.16.
  38. Alex J. Pollock, “Plan C: A Simple Fix for Fannie and Freddie,” *Congress Blog: The Hill’s Forum for Lawmakers and Policy Professionals*, April 7, 2014.
  39. Howard (2014) 33, *supra* n.20.
  40. Norbert J. Michel and John L. Ligon, *Fannie and Freddie: What Record of Success?*, The Heritage Foundation Backgrounder, November 7, 2013.
  41. Carnell (2005) 569, *supra* n.26.
  42. Reiss (2007–2008) 1022, *supra* n.31.
  43. Reiss (2007–2008) 1027, *supra* n.31.
  44. Office of Federal Housing Enterprise Oversight, *Report of the Special Examination of Fannie Mae* (Washington, DC, 2006). Federal Home Finance Agency Office of Inspector General, *A Brief History of the Housing Government-Sponsored Enterprises* (Washington, DC, n.d.).
  45. Zoe Tillman, “Fannie Mae Settles Securities Fraud Class Action,” *THE BLT: The Blog of Legal Times*, May 8, 2013. Zoe Tillman, “Judge Approves \$153 Million Settlement in Fannie Mae Securities Class Action,” *THE BLT: The Blog of Legal Times*, December 6, 2013.
  46. Engel and McCoy (2011), *supra* n.16.
  47. Reiss (2007–2008), *supra* n.31. United States General Accounting Office, *Government-Sponsored Enterprises: The Government’s Exposure to Risks* (Washington, DC, 1990).
  48. Reiss (2007–2008) *supra* n.31.
  49. Reiss (2007–2008) *supra* n.31.
  50. William M. Isaac with Philip C. Meyer, *Senseless Panic: How Washington Failed America* (John Wiley & Sons, Inc., 2010).
  51. David Scharfstein and Adi Sunderam “The Economics of Housing Finance Reform,” in Martin Neil Baily (ed), *The Future of Housing Finance: Restructuring the U.S. Residential Mortgage Market*, (Brookings Institution Press, 2011).
  52. Howard (2014), *supra* n.20.
  53. Hagerty (2012), *supra* n.13.
  54. *Id.* at 98.
  55. Dwight M. Jaffee, “Reining in Fannie Mae and Freddie Mac” *Regulation* Fall (2006), 22–27.
  56. Lawrence J. White, “On Truly Privatizing Fannie Mae and Freddie Mac: Why It’s Important and How to Do It” *Housing Finance International* 20.2 (2005) 13–19.
  57. Jaffee (2006), *supra* n.55.
  58. Valerie L. Smith, *Subordinated Debt Issuance by Fannie Mae and Freddie Mac* (OFHEO, 2007).
  59. Jaffee (2006), *supra* n.55.
  60. Thomas H. Stanton, *A State of Risk: Will Government-Sponsored Enterprises Be the Next Financial Crisis?* (HarperBusiness, 1991).
  61. Alex J. Pollock, *Testimony, Oversight of Government-Sponsored Enterprises: The Risks and Benefits of GSEs to Consumers: Hearing before the Financial Management, the Budget, and International Security, of the Committee on Governmental Affairs, United States Senate*. July 21, 2003.

62. Jaffee (2006), *supra* n.55.
63. Thomas H. Stanton, *Devising an Effective Legal Framework for Supervising the Public Benefits and Public Costs of Government Sponsored Enterprises* (World Bank, 1999), cited in Reiss (2007–2008), *supra* n.31.
64. Charles Kulp, *Assessing the Banking Industry's Exposure to an Implicit Government Guarantee of GSEs* (FDIC, 2004).
65. White (2005), *supra* n.56.
66. Johnson (1996), *supra* n.10.
67. Gretchen Morgenson and Joshua Rosner, *Reckless Endangerment: How Outsized Ambition, Greed, and Corruption Led to Economic Armageddon* (Times Books, 2011).
68. Howard (2014), *supra* n.20.
69. Morgenson and Rosner (2011), *supra* n.67.
70. Tom Raum and Jim Drinkard, "Fannie Mae, Freddie Mac Spent Millions on Lobbying" *USA Today* July 17, 2008.
71. Howard (2014), *supra* n.20, and Sam Loewenberg, "Bank Lobby Puts Heat on Fannie Mae" *Legal Times*, July 17, 2000.
72. Opensecrets.org, *Annual Lobbying by Fannie Mae* (Opensecrets.org, 2014).
73. Scharfstein and Sunderam (2011), *supra* n.51.
74. Douglas J. Elliott "The Federal Role in Housing Finance: Principal Issues and Policy Proposals," in Martin Neil Baily (ed.), *The Future of Housing Finance: Restructuring the U.S. Residential Mortgage Market*, (Brookings Institution Press, 2011).
75. Howard (2014), *supra* n.20.
76. *Id.*
77. Scharfstein and Sunderam (2011), *supra* n.51.
78. National Commission on the Causes of the Financial and Economic Crisis in the United States, *The Financial Crisis Inquiry Report* (PublicAffairsReports, 2011).
79. Stanton (2012) 245, *supra* n.14
80. Engel and McCoy (2011).
81. Board of Governors of the Federal Reserve System, *Discount Window Lending: Proposal to Lend to Fannie Mae and Freddie Mac through Advances Secured by Obligations to the United States or Any U.S. Agency* (Board of Governors of the Federal Reserve System, 2008).
82. U.S. Treasury Support for Fannie Mae and Freddie Mac, *Mortgage Market Note 10-1 (Update of Mortgage Market Notes 09-1 and 09-1A)* (Federal Housing Finance Agency, 2010).
83. U.S. Department of the Treasury, Statement by Secretary Henry M. Paulson, Jr. on Treasury and Federal Housing Finance Agency Action to Protect Financial Markets and Taxpayers (U.S. Department of the Treasury, 2008). Engel and McCoy (2011). Jonathan Weil, "We Should Have Killed Fannie Mae When We Had the Chance" *BloombergView*, March 3, 2014.
84. Engel and McCoy (2011), *supra* n.16.
85. *Id.*
86. U.S. Department of the Treasury (2008), *supra* n.83.
87. Johnson and Kwak (2010), *supra* n.36.
88. Discussion Draft in the Senate of the United States – 113th Cong., 2d Sess., S. 1217. Washington, DC: United States Congress. Maxine Waters, "Waters Unveils Housing Finance Reform Legislation." Washington, DC: U.S. Congresswoman Maxine Waters. March 27, 2014.
89. Bethany McLean and Joe Nocera, *All the Devils Are Here: The Hidden History of the Financial Crisis* (Portfolio/Penguin, 2011). The Department of the Treasury and U.S. Department of Housing and Urban Development, *Reforming America's Housing Finance Market: A Report to Congress* (The Department of the Treasury and U.S. Department of Housing and Urban Development, 2011) and Housing Commission, *Housing America's Future: New Directions for National Policy* (Bipartisan Policy Center, 2013).
90. Dick Meyer, "Fannie's Lesson: The Real Scandals Are Legal" (NPR, 2008).
91. Housing Commission (2013), *supra* n.89.
92. Reiss (2007–2008) 1080, *supra* n.31.
93. Jon Prior, "Fannie and Freddie to Pay Back Taxpayers" *Politico* (February 21, 2014).
94. Bonnie Kavoussi, "AIG: 'Thank You America' For The Taxpayer-Funded Bailout!" *Huffington Post* (January 2, 2013). Tom Krisher, "GM Bailout Was A Win For Taxpayers, Outgoing CEO Says" *Huffington Post* (December 16, 2013).
95. Gina Chon, "Fannie and Freddie Plan Gets Washington Attention" *Financial Times* (November 22, 2013).
96. John Griffith, "The \$5 Trillion Question: What Should We Do with Fannie Mae and Freddie Mac" Comparison of 21 Plans to Reform Fannie Mae and Freddie Mac" (Center for American Progress, 2012).
97. Eric Stein and Carrie Johnson, *Framework for Housing Finance Reform: Fixing What Went Wrong and Building on What Works* (Center for Responsible Lending, 2013).
98. Jeb Hensarling, "Reforming Fannie Mae and Freddie Mac," (Rep. Jeb Hensarling, n.d.).
99. Bob Corker, "Housing Finance Reform and Taxpayer Protection Act" (Sen. Bob Corker, June 25, 2013).
100. US Senate Committee on Banking, Housing, and Urban Affairs, "Johnson, Crapo Announce Housing Finance Reform Markup," (United States Senate Committee on Banking, Housing, and Urban Affairs, March 28, 2014).
101. Maxine Waters, "Waters Unveils Housing Finance Reform Legislation" (Rep. Maxine Waters, March 27, 2014).
102. Federal Housing Finance Agency, "FHFA Directs Delisting of Fannie Mae and Freddie Mac Stock from New York Stock Exchange" FHFA News Release, June 16, 2010.
103. Ralph Nader, Letter to Mel Watt, January 7, 2014.
104. Gretchen Morgenson, "The Untouchable Profits of Fannie Mae and Freddie Mac" *The New York Times* (February 15, 2014).
105. Henry M. Paulson, Jr., *On the Brink: Inside the Race to Stop the Collapse of the Global Financial System* (Business Plus, 2013) xxxii–xxxiii.

- 
106. Trey Garrison, "Paying Fannie and Freddie Investors Was Never Part of the Plan. Investors: This is Government Confiscation of Private Property," *Housingwire.com*, February 18, 2014.
  107. James K. Glassman, "Don't Kill Fannie and Freddie," *BloombergView*, October 22, 2013.
  108. Morgenson (2014), *supra* n.104.
  109. Howard (2014) 261, *supra* n.20.
  110. Alan Greenspan, Statement of Alan Greenspan, Chairman Board of Governors of the Federal Reserve System, *Proposals for Improving the Regulation of the Government Sponsored Enterprises, United States Senate*. February 24, 2004.
  111. Jody Shenn, Hedge Funds' Big Bet on Fannie and Freddie May End Up Worthless, *Bloomberg*, March 13, 2014.
  112. Ralph Nader, Letter to The Honorable Jacob J. Lew, Secretary of the Treasury, Department of the Treasury, May 23, 2013. N.p.
  113. Mark Zandi and Cristian deRitis, Evaluating PATH, *economy.com*, July 2013.
  114. *Id.*
  115. Timiraos (2014), *supra* n.5.
  116. Mark Zandi and Cristian deRiits. Evaluating Corker-Warner. *economy.com*. July 2013.
  117. Mark Fogarty, "Why Not Make the GSEs More Like Ginnie—Or Like the Banks?" *National Mortgage News*. May 8, 2014. Immergluck (2009).
  118. Stein and Johnson (2013), *supra* n.97.

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