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Johnson and Crapo Release Housing Finance Reform Proposal

Senate Banking Committee Chairman Tim Johnson (D-SD) and Ranking Member Mike Crapo (R-ID) recently released the highly anticipated text from their housing finance reform proposal. As expected, the 442-page proposal—officially labeled as a discussion draft—incorporates measures from both Democratic and Republican members of the committee, the administration, and third-party stakeholders. The proposal follows a similar structure to the *Housing Finance Reform and Taxpayer Protection Act* (S. 1217), which was introduced last summer by Sens. Mark Warner (D-VA) and Bob Corker (R-TN) and supported by four Democratic and four Republican members of the committee.

According to Chairman Johnson and Ranking Member Crapo, a markup will be held "in the coming weeks." However, a few senators have expressed that they would like a legislative hearing before markup. Between now and markup, industry and consumer groups will have an opportunity to engage the committee and negotiate some details of the proposal. Given the potentially small window of opportunity, stakeholders must act now to protect measures that may be of interest since the proposal is likely to provide a framework for future reform efforts.

The crux of the Johnson-Crapo proposal is its creation of an entirely new housing finance system, which the sponsors hope will bring in more private capital to the market, ensure enough government support to preserve the 30-year fixed-rate mortgage, and protect taxpayers against future bailouts. To accomplish this, the text outlines a process for winding down Fannie Mae and Freddie Mac over a five-year period. If necessary, this period could be extended to account for market disruptions or issues related to credit availability. In place of these government-sponsored enterprises (GSEs), the proposal establishes a new Federal Mortgage Insurance Corporation (FMIC) that would act as a mortgage market regulator, provide catastrophic insurance, and securitize mortgages.

Similar to the Corker-Warner bill, this proposal requires private capital to cover the first 10 percent of losses on mortgage-backed securities. It also creates a new insurance fund, paid for by fees on securities issuers, to protect taxpayers against losses that exceed the first loss position. Additionally, FMIC's underwriting standards would mirror existing Qualified Mortgage (QM) rules and the down payment requirement would be set at 5 percent for borrowers, though a carve-out exception for first-time home buyers would only require 3.5 percent down.

Although House Financial Services Committee Chairman Jeb Hensarling (R-TX) commended Chairman Johnson and Ranking Member Crapo for reaching a deal that would abolish Fannie Mae and Freddie Mac, he expressed concern regarding the creation of a new government backstop. Specifically, he is "skeptical of any approach that does not end the permanent government guarantee in the secondary market" as "such an approach could very well perpetuate the cycle of boom, bust and bailout we tragically just witnessed."

That said, the *Protect American Taxpayers and Homeowners Act* (H.R. 2767)—which the House Financial Services Committee passed on a mostly party-line vote in July 2013—has not garnered enough attention to receive floor time. If the Johnson-Crapo proposal gains enough traction to pass the

Senate this year, it will more than likely serve as the template for negotiations between the two chambers.

Links to the official documents released by the Senate Banking Committee can be found below:

- **Legislative Text**
- **Section-by-Section**
- **Detailed Summary**

This document is intended to provide you with general information regarding the Housing Finance Reform Proposal. The contents of this document are not intended to provide specific legal advice. If you have any questions about the contents of this document or if you need legal advice as to an issue, please contact the attorneys listed or your regular Brownstein Hyatt Farber Schreck, LLP attorney. This communication may be considered advertising in some jurisdictions.

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