



Town Hall Tool Kit

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Thank you for your interest in our Town Hall Toolkit, we hope it will provide you with relevant materials to use when approaching your U.S. Senators and Representatives while they are home for summer recess. It is vital that we continue to explain our principles to our elected officials. They are chosen to represent their constituents and it is essential they are aware of our position and the danger current legislation poses to our rights as investors.

This toolkit provides different ways that you can use to engage with your legislator. We encourage you to seek out opportunities that you can contact him or her while they are in your area. Often during summer recess, each Member will hold town hall meetings where they encourage their constituents to come and voice their concerns. We think this is an excellent opportunity for you as an Investors Unite member to engage your elected official on current flaws in GSE reform legislation.

To find out your legislator and their schedule, you can visit the [House of Representatives](#) or [Senate](#) homepages. Once you have found your delegate, you can view their schedule or contact their office to find a time and location that is convenient for you.

As you know, **investors are pro-reform**. We support GSE reform. But reform does not equal destruction. Instead of destroying and recreating the housing system, we would urge the Government to fix what we already have.

We believe that any reform of Fannie Mae or Freddie Mac must abide by the following **key principles**:

1. **Respect for the rule of law and protection of shareholder rights;**
2. **Market stability and growth; and,**
3. **Adequate provisions for affordable housing.**

In the tool kit, you will find useful materials to bring along with you to engage with your elected official. We have included a **copy of our flier** that you can print and bring to any event your representative is hosting and provide to those that are in attendance.

Additionally, we have included **key ideas for you to consider when constructing a letter to the editor** for your local newspaper. One of the main ways our representatives hear from their constituents is from daily news articles published in their hometowns' newspapers. We encourage you to use these points to draft your own unique letter, explaining the need for any GSE reform to include the protection of our rights as investors. We have provided different sets depending on your representatives' political party. Though the same themes run throughout both sets, it will be most effective to use the respective set to best resonate with your representatives' ideas, beliefs and policy initiatives.

Finally, the toolkit provides a **document of what significant thought leaders are saying about Johnson-Crapo** and different **news articles that explain key flaws of current housing reform legislation**. These articles represent the growing chorus of agreement that Johnson-Crapo should not be made law. It is through recent press that we can further show the strength in our ideas and the overwhelming consensus that any housing finance reform must include investors' rights and respect for the rule of law.

Thank you for taking an active role in the protection of your rights. If you have any questions about this toolkit or how best to utilize it, please do not hesitate to email us at info@investorsunite.org or call at 866-288-3537.

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REFORMING FANNIE AND FREDDIE: WHY IT MATTERS

REAL REFORM FOR FANNIE & FREDDIE

Current legislation needs to be amended in order for all investors – pensioners, community banks and individuals – to be repaid and create a solid platform for the mortgage market to thrive.

- Repayment Of Pensioners, Community Banks and Individuals Invested in Fannie and Freddie
- Stricter Lending Standards And Oversight Of Fannie And Freddie
- Affordable Housing Goals Reinstated & Upheld Under Stricter Oversight

GOVERNMENT INTERFERENCE IN HOUSING MARKET

In 2008, U.S. government bailed out Fannie Mae and Freddie Mac (Government-Sponsored Enterprises or GSEs) in an attempt to stabilize the housing market and the U.S. economy. **In March 2014, Fannie and Freddie will have repaid the taxpayers and are making tens of billions of dollars in profits.** Despite the taxpayers being made whole, plus interest, the U.S. Treasury continues to take 100 percent of Fannie and Freddie profits while **Fannie and Freddie shareholders are left with nothing.**

Legislators are seeking to reform the mortgage market system to make GSEs more accountable and to prevent a repeat mortgage crisis from happening in the future. **Flaws in current proposed legislation, such as Corker-Warner and Johnson-Crapo, fail to repay those who hold shares in the two enterprises including pensioners, community banks and individuals.**¹

It has recently been revealed in an internal Treasury memo that the Obama Administration never intended to repay investors yet continued to encourage investment in Fannie and Freddie by outside investors. This deliberate violation of market place rules not only qualifies as theft and market manipulation (securities fraud), but leaves millions of pensioners, community banks and individuals holding worthless paper.

2008

Federal Government Bails Out Fannie Mae And Freddie Mac With \$188 Billion Dollars²

2012

Federal Government Implements Plan To Take 100 Percent Profits Of Fannie And Freddie⁴

2010

Gov't Memo Devises Scheme To Freeze Out Private Investors (pension funds, community banks) *"The Administration's Commitment To Ensure Existing Common Equity Holders Will Not Have Access To Any Positive Earnings From The G.S.E.'S In The Future."*³

2014

Government & Taxpayer Repaid; Shareholders Hold Worthless Paper⁵

HOW CURRENT FANNIE/FREDDIE REFORM LEGISLATION FALLS SHORT

- Continues and Codifies Confiscation Of Investors' Funds By The U.S. Treasury
- Disrespects The Rule Of Law By Refusing To Repay Investors Or Follow Market Rules
- Creates Uncertainty In The Housing Market, Threatening The Stability Of The 30-Year Mortgage

¹ U.S. Senate, 113th Congress, 2nd Session, S.1217, *Housing Finance Reform and Taxpayer Protection Act of 2014*. Washington, Government Printing Office, 2014. (Title VI, Sec. 604).

² "Bailout Recipients," *ProPublica*, Accessed 3/6/14

³ Gretchen Morgenson, "The Untouchable Profits of Fannie Mae and Freddie Mac," *New York Times*, 2/15/14

⁴ "Analysis of the 2012 Amendments to the Senior Preferred Stock Purchase Agreements," *Federal Housing Finance Agency Office of Inspector General*, 5/20/13

⁵ Nick Timiraos, "Freddie Mac reports \$8.6 billion profit for fourth quarter," *Market Watch*, 2/27/14



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LETTER TO THE EDITOR – DEMOCRAT DRAFT KEY IDEAS

One of the main ways our representatives hear from their constituents is from daily news articles published in their hometowns' newspapers. Typically letters to the editor are around 250 – 300 words (about half a page, typed out) and can be submitted to the editor of the paper by e-mail or U.S. mail.

If your U.S. Representative or Senator is a **Democrat**, use these talking points to craft a letter to the editor for your local newspaper.

- Johnson-Crapo does not do enough to provide credit access to minority and low-income groups. Several civil rights groups released a statement citing the legislation's impact on this community, needlessly making mortgages more expensive, less available, and less equitable. Through hidden fees, it will raise monthly mortgage prices, negatively impacting individuals and families that are working hard to pay their mortgage, put food on the table, and save for their children's education.
- Johnson-Crapo will threaten the stability of the 30-year mortgage by creating market uncertainty with a new agency, rules, and regulators.
- Johnson-Crapo removes fair housing goals, making it more difficult for minority and low-income individuals to purchase a home.
- The 10 percent capitalization requirement means a higher mortgage rate for borrowers. According to a study by Moody's Analytics, Crapo-Johnson would add about half a percentage point to the average mortgage rate, about \$75/month.
- There is no guarantee that mortgage business will not fall into the hands of Too-Big-To-Fail banks, failing to reform the very root of the housing crisis' problem to begin with. Though Crapo-Johnson attempts to preclude this, the overall bill increases costs and thus mortgage rates.
- Johnson-Crapo's new system threatens other mortgage lenders all together by allowing for vertical integration in the housing market, meaning financial institutions are able to originate, aggregate, securitize and guarantee loans. Fannie and Freddie are not even permitted to originate loans due to the concern that this provision would increase their dominance.
- Johnson-Crapo locks out community banks that serve rural and underserved portions of the population. Not only will the new system help hand business to larger banks, it does nothing to repay those community banks that invested in Fannie and Freddie. Their outstanding capital is tied up with the two GSEs and if not returned, could potentially put them under. Community banks serve a vital role in rural communities and also account for 40 percent of dollars loaned to small, minority and women-owned enterprises. These economic drivers of our economy cannot stand to lose our community banks yet Crapo-Johnson does not ensure their survival.
- Johnson-Crapo fails to repay pension funds that invested in Fannie and Freddie in good faith, refusing to repay many who unknowingly invested through their retirement fund.

LETTER TO THE EDITOR – REPUBLICAN DRAFT KEY IDEAS

One of the main ways our representatives hear from their constituents is from daily news articles published in their hometowns' newspapers. Typically letters to the editor are around 250 – 300 words (about half a page, typed out) and can be submitted to the editor of the paper by e-mail or U.S. mail.

If your U.S. Representative or Senator is a **Republican**, use these talking points to craft a letter to the editor for your local newspaper.

- Johnson-Crapo continues and codifies confiscation of investors' funds by the U.S. Treasury, leaving pensioners, community banks, insurance companies and individuals holding worthless paper.
- Johnson-Crapo disrespects the rule of law by refusing to repay investors or follow market rules. This violates property rights and sends a negative signal that the U.S. will not make good on its contractual agreements.
- Johnson-Crapo threatens future investment into the housing market by setting a dangerous precedent of government confiscation of investors' funds
- Johnson-Crapo harms the taxpayer by adding \$5 trillion to the government's balance sheet.
- Johnson-Crapo will threaten the stability of the 30-year mortgage by creating market uncertainty with a new agency, rules, and regulators.
- Johnson-Crapo's new system threatens other mortgage lenders all together by allowing for vertical integration in the housing market, meaning financial institutions are able to originate, aggregate, securitize and guarantee loans. Fannie and Freddie are not even permitted to originate loans due to the concern that this provision would increase their dominance.
- Johnson-Crapo locks out community banks that serve rural and underserved portions of the population. Not only will the new system help hand business to larger banks, it does nothing to repay those community banks that invested in Fannie and Freddie. Their outstanding capital is tied up with the two GSEs and if not returned, could potentially put them out of business. Community banks serve a vital role in rural communities and also account for 40 percent of dollars loaned to small, minority and women-owned enterprises. These economic drivers of our economy cannot stand to lose our community banks yet Crapo-Johnson does not ensure their survival.

WHAT THEY ARE SAYING ABOUT JOHNSON-CRAPO

Edward J. Pinto, resident fellow at the American Enterprise Institute. “The Johnson-Crapo bill would require politicized credit standards—once again putting lower-income families into housing they can’t afford, with the same disastrous results. The bill, as was the case with Fannie and Freddie, would encourage too much of the wrong kind of debt for our economy—debt that bids up existing housing assets and the land they sit on, creating a temporary wealth effect and a crowding out of capital investment needed for a productive and growing economy and jobs growth. Worse, the result will be another artificial housing boom and consequent bust.” (Edward J. Pinto, “Why the Johnson and Crapo ‘Taxpayer Protection Act’ will not protect taxpayers,” [The Hill](#), 3/24/14)

Ike Brannon, senior fellow at the George W. Bush Institute. “The current reform plan that has garnered bipartisan support, the one proposed by Senators Tim Johnson and Mike Crapo, would wind down Fannie and Freddie and replace them with new entities. In doing so it would also largely codify the Treasury’s zeroing out of Fannie and Freddie’s private shareholders. Reform of the U.S. housing market is past due: if we hope to rebuild our mortgage finance system on a foundation of private capital, then property and contractual rights must be respected.” (Ike Brannon and Mark Calabria, “The Paths to Mortgage Finance Reform and Their Budgetary Implications,” [CATO Institute](#), 3/18/14)

John Berlau, senior fellow at Competitive Enterprise Institute. “The legislation would create, for the first time, an explicit taxpayer guarantee of the GSEs’ \$5.6 trillion in debt. The “affordable housing trust fund,” a slush fund for “housing advocacy” groups such as ACORN until it was closed due to Fannie and Freddie’s financial woes, would be reopened and parked in the new FMIC. Worst of all, and sending the worst possible signal to potential private sector investors in the housing market, Fannie and Freddie common and preferred shareholders would be wiped out permanently under the bill’s Section 604.” (John Berlau, “Phony Fannie-Freddie reform empowers the left,” [Daily Caller](#), 3/25/14)

Norbert Michel and John Ligon research fellows at The Heritage Foundation. “There are many other problems with both Senate bills, such as the expansion of housing trust funds and affordable-housing mandates, but the explicit backing of investors during a crisis appears unique to Johnson–Crapo. Between these Senate bills and the Dodd–Frank Act, the federal government is close to completely taking over the housing finance market. Taxpayers—and consumers—deserve much better.” (Norbert Michel and John Ligon, “Johnson–Crapo Housing Finance Reform Misguided,” [The Foundry](#), 3/24/14)

James K. Glassman, Former Undersecretary Of State For Public Diplomacy And Public Affairs/Visiting Fellow At AEI/SEC Investor Advisory Board Member. “In going through contortions to reinvent the housing finance system, the senators have avoided the obvious solution: keep the basic platform that has generally served American homeowners well but reform it to reduce risks. Instead, Johnson and the others have come up with a contraption that resembles the Affordable Care Act in its convolutions and its potential for unintended consequences.” (James K. Glassman, Op-Ed, “The Obamacare Of Real Estate,” [The Weekly Standard](#), 3/18/14)

- “It’s hard to understand why legislators think that government can restructure this one-sixth of the economy any better than they are restructuring the one-sixth represented by health care.” (James K. Glassman, Op-Ed, “The Obamacare Of Real Estate,” [The Weekly Standard](#), 3/18/14)
- “But the problems with Johnson-Crapo-Corker-Warner don’t end there. The legislation would also add \$5 trillion to the liabilities side of the federal balance sheet and tempt ratings agencies to demote government bonds again. And, in defiance of the rule of law, the senators blithely strip shareholders of all their assets in two major businesses. This is behavior you expect in Venezuela, not in the United States, and it will certainly lead to an erosion of investor confidence.” (James K. Glassman, Op-Ed, “The Obamacare Of Real Estate,” [The Weekly Standard](#), 3/18/14)

Timothy Lee, senior vice president of legal and public affairs at the Center for Individual Freedom. “Under Crapo-Johnson, those investors remain left out in the cold, their savings and retirement in limbo. Meanwhile, taxpayers would remain on the hook because the full faith and credit of the U.S. government would backstop the newly-created entity under Crapo-Johnson. You can try to put lipstick on a pig, but you’re not fooling anyone: Crapo-Johnson is more of the same.” (Timothy Lee, “Crapo-Johnson Housing “Reform” Bill: More of the Same,” [Center for Individual Freedom](#), 3/18/14)

Dr. Carl Horowitz, National Legal And Policy Center (NLPC). “Fannie Mae and Freddie Mac Never underestimate the ability of Congress to address a problem through symbolic action. Over the weekend, Sens. Tim Johnson, D-S.D., and Mike Crapo, R-Idaho, introduced a bill, the Housing Finance Reform and Taxpayer Protection Act of 2014, to phase out secondary mortgage lending corporations Fannie Mae and Freddie Mac over a five-year period and replace them with a new insurance-based system. The 442-page draft bill builds on a plan unveiled last June by Sens. Bob Corker, R-Tenn., and Mark Warner, D-Va. Like its predecessor, this bill rests on the faulty premise that the main problem is these companies’ continued existence. Lawmakers instead should allow them to operate, but without a federal lifeline. Significantly, the new bill makes no mention of the junior preferred and common Fannie Mae and Freddie Mac shareholders whose earnings are being seized in perpetuity by the U.S. Treasury.” (Dr. Carl Horowitz, “Johnson-Crapo Fannie Mae/Freddie Mac Repeal Bill Misses Larger Issues,” National Legal And Policy Center [Blog Post](#), 3/17/14)

- “There is a good reason to be skeptical of the new bill. Not only does it not take taxpayers off the hook, it may make them more liable. This is because the measure, rather than discourage high-risk lending, shifts the burden to other parties.” (Dr. Carl Horowitz, “Johnson-Crapo Fannie Mae/Freddie Mac Repeal Bill Misses Larger Issues,” National Legal And Policy Center [Blog Post](#), 3/17/14)
- “The Johnson-Crapo proposal does not create a fully private market. It merely appears to do so. And this is why the end result of easy mortgage money under the new system will be the same as under the pre-2008 system: a surfeit of defaults and foreclosures among homebuyers who couldn’t afford the loans they took out. The U.S. Treasury, once again, will be pressed into service as a bailout agency.” (Dr. Carl Horowitz, “Johnson-Crapo Fannie Mae/Freddie Mac Repeal Bill Misses Larger Issues,” National Legal And Policy Center [Blog Post](#), 3/17/14)

Richard A. Epstein, senior fellow at the Peter and Kirsten Bedford at the Hoover Institution. “This audacious legislative maneuver attempts to deflect the constitutional and administrative challenges to the Third Amendment by announcing that Congress thinks that the government should keep the Fannie and Freddie dollars. How ironic. Right now the Congress is desperately working to find ways in which to increase the private capital invested in mortgage markets.” (Richard Epstein, “When Our Government Commits Fraud,” [Defining Ideas](#), 3/3/14)

Bernard L. Weinstein, a professor at the Cox School of Business at Southern Methodist University and a fellow with the George W. Bush Institute. “[t]he Johnson-Crapo bill is the wrong approach to a Fannie and Freddie wind-down. It is tantamount to an uncompensated government taking that violates the ‘rule of law’ and ignores private property rights.” (Bud Weinstein, “Johnson-Crapo will endanger America’s 5,000 community banks,” [The Hill](#), 4/15/14)

John Ligon, senior policy analyst and Norbert Michel, research fellow at The Heritage Foundation. “Aside from any implications regarding the shareholder lawsuits, the problem with the new approach in the Senate is that it would barely change the public-private nature of the pre-crisis GSE system. The Johnson-Crapo bill, for example, requires a “first-loss” position of 10 percent for private “guarantors” of MBS but then waives the requirement in the event of a crisis.” (John Ligon and Norbert Michel, “Fannie and Freddie 2.0: The Senate Does Not Get the Government Out of the Market,” [The Foundry](#), 4/18/14)

Jon Entine, visiting fellow at the American Enterprise Institute. “And now in a disturbing turn of events, an explosive government document has emerged that suggests that the Obama Administration appears

determined to liquidate most or all of their investments, as Congress stands by with proposals that would only codify the Administration's plan—committing what an 'odd fellows' coalition of über-liberals, shareholder activists and hedge fund managers say could be the largest securities fraud in the history of the United States." (Jon Entine, "With Fannie and Freddie Debt Repaid to Taxpayers, Will Uncle Sam Turn Shareholders Into Zombie Investors?" [Forbes](#), 2/21/14)

Competitive Enterprise Institute and other Conservative Groups oppose GSE legislation, "Johnson-Crapo violates shareholder rights by empowering the government to continue to claim GSE profits in perpetuity, even after taxpayers have been paid back. This would wipe out Fannie and Freddie's private shareholders, including community banks, pension funds, and individual investors... [F]ederal law should respect GSE shareholders at the same level as state corporate law in liquidations and reorganizations." ([CEI](#), 4/22/14)

Jonathan R. Macey, Corporate Finance and Securities Law Professor at Yale Law School. "Under proposals before Congress, virtually everyone loses. First, the GSEs' shareholders' property rights are violated. Second, taxpayers face the potential burden of the GSEs' trillions in liabilities without dispensing via the orderly and known processes of a traditional bankruptcy proceeding or keeping the debts segregated as the now-unprofitable GSEs seek to pay them down. Finally, the rule of law is subverted, thereby making lending and business in general a riskier proposition when the country and global economy are left to the political whims of the federal government." (Jonathan Macey, "Stealing Fannie and Freddie," [Federalist Society](#), 4/27/14)

60 Plus Ad Coverage, "A conservative group is labeling bipartisan proposals to overhaul Fannie Mae and Freddie Mac "Obamacare for the mortgage industry" in a new \$1.6 million ad campaign. The campaign, which targets seven senators for their support of the overhaul, argues that the plans would harm shareholders of the bailed-out mortgage-finance giants. The position is noteworthy, since conservative organizations haven't traditionally come to the defense of Fannie and Freddie." (Nick Timiraos, "Ads Claim Fannie, Freddie Overhaul Is 'Obamacare for Mortgage Industry,'" [Wall Street Journal](#), 4/2/2014)

Juan Carlos Duque, an Idaho financial advisor. "The fact is that allowing government to arbitrarily dishonor legitimate claims like those of the shareholders is unambiguously contrary to our nation's great traditions of protecting private property rights and respecting contract law and should deeply concern us all. Not righting this wrong would send the chilling message that government shouldn't be trusted to operate by the same rules as everyone else." (Juan Carlos Duque, "Fannie Mae, Freddie Mac shareholders deserve compensation," [Idaho Statesman](#), 4/27/14)

Senator Elizabeth Warren (D-MA). "I remain concerned that this bill in its current form does not do enough to produce a housing market that works for middle class America." (Elizabeth Warren, "GSE Reform Faces an Uncertain Future," [Credit Union Times](#), 5/26/14)

Senator Harry Reid (D-NV), Senate Majority Leader. "The president said just a few days ago we are going to have to take a look at Fannie and Freddie. These are the government organizations that have made homeownership so easy. I don't agree with the president. He says he wants to get rid of them. I think we'd better be very, very careful in doing that. I will look closely at his recommendations because on their face, I don't like them." (Harry Reid, "GSE Reform Faces an Uncertain Future," [Credit Union Times](#), 5/26/14)

Senator Pat Toomey (R-PA). said of the Treasury's full sweep of profits from the GSEs that "it looks an awful lot like an unconstitutional taking." (Pat Toomey, "Bipartisan Fannie, Freddie reform bill clears Senate panel, but unlikely to advance," [Washington Examiner](#), 5/15/14)

James Carr, Scholar with The Opportunity Agenda. "Estimates by a range of institutions show that elimination of Fannie Mae and Freddie Mac will result in increased mortgage interest rates from just under half of a percentage point to more than two full percentage points. Ironically, a major concern currently with Fannie Mae and Freddie Mac is that homebuyers now are paying more than they should because, under

conservatorship, the firms' mortgage guarantee fees have been raised to pay for non-housing related federal program spending and other policy purposes.” (James Carr, “Here's how to really help families obtain housing,” [The Hill](#), 5/28/14)

Jonathan R. Macey, Sam Harris Professor of Corporate Law, Corporate Finance and Securities Law at Yale Law School. “The Johnson-Crapo legislation threatens to codify the federal government's actions toward shareholders to date - constituting a complete federal taking of the shareholders' property. This is not only illegal, it is unconstitutional.” (Jonathan Macey, “Congress Is Stealing Fannie and Freddie,” [Real Clear Markets](#), 5/14/14)

Guari Shah, Elizabeth Harrison, Jonathan Slater and Brandon Mial, individual investors in Fannie Mae and Freddie Mac and members of the Investors Unite coalition. “the legislation proposed by Sens. Mike Crapo and Tim Johnson would not only increase risk to taxpayers during a repeat housing crisis, but also refuses to recognize marketplace rules and the rule of law.” (Guari Shah, Elizabeth Harrison, Jonathan Slater and Brandon Mial, “Housing reform must respect shareholder rights,” [The Hill](#), 5/30/14)

Arnold King, affiliated senior scholar with the Mercatus Center at George Mason University. “With the Johnson-Crapo housing finance reform bill making its way through the Senate Banking Committee on a 13-9 vote, some may feel the time is finally right for housing finance reform. But a closer look at the dismal housing finance policy in the United States suggests that lawmakers have yet to learn from the mistakes of the past.” (Arnold King, “Is Now the Time for Housing Finance Reform? Maybe Not,” [Roll Call](#), 5/22/14)

USEFUL NEWS ARTICLES

THE WALL STREET JOURNAL

Theodore B. Olson: Treasury's Fannie Mae Heist

By Theodore B. Olson

July 23, 2013

<http://online.wsj.com/news/articles/SB10001424127887323309404578617451897504308#printMode>

The federal government currently is seizing the substantial profits of the government-chartered mortgage firms, Fannie Mae and Freddie Mac, taking for itself the property and potential gains of private investors the government induced to help prop up these companies. This conduct is intolerable.

Earlier this month I filed a lawsuit to stop it, now known as Perry Capital v. Lew, and other lawsuits challenging the government's authority to demolish private investment are stacking up. Perhaps it's time for the government to change course.

When the nationwide mortgage crisis first took hold in 2007 and 2008, Fannie and Freddie shored up their balance sheets with some \$33 billion in private capital, much of it from community banks, which federal regulators encouraged to invest in the companies. As the crisis deepened, the government determined that Fannie and Freddie also needed substantial assistance from taxpayers. Congress passed the Housing and Economic Recovery Act of 2008, and under that law the government ultimately plowed \$187 billion into the companies.

Taxpayers should get their investment back, but once they do, so should the private investors who first came to Fannie and Freddie's aid. The government's scheme to wipe out these investors is bad policy and a plain violation of the law that respects private, investment-backed expectations and our constitutional protection of property rights.

When the government intervened in Fannie and Freddie in 2008, it faced a choice: It could place the companies into a receivership and liquidate them, or it could operate them in a conservatorship and manage them back to financial health. Conservatorship, the government agreed, offered the best chance of stabilizing the mortgage market while repaying the taxpayers for their investment.

Today, Fannie and Freddie are back. Last quarter, Fannie announced a quarterly profit of over \$8 billion; Freddie made \$7 billion.

Rather than allow private investors to share in these profits, the federal government unilaterally decided to seize every dollar for itself. Last summer the government changed the terms of its investment from a fixed annual dividend of 10%—a healthy return in this market—to a dividend of nearly every dollar of the companies' net worth for as long as they remain in operation.

So, at the end of last month, Fannie and Freddie sent a whopping \$66 billion to the Treasury as a dividend. None of this money went to pay down the government's investment. Whatever amount of money the government takes out of Fannie and Freddie, the amount owed to the government is never to be reduced, meaning there can never be any recovery for private investors.

It's a splendid deal for the government: The president's budget estimates, over the next 10 years, that the government will recover \$51 billion more than it invested in the companies—and that's on top of tens of billions in dividends the government took out of the companies from 2008-12. But it's a complete destruction of the investments of private shareholders.

That is unlawful for at least three reasons. First, the government's authority to revise its investments in Fannie and Freddie expired more than three years ago. Its change in the payment structure was utterly lawless.

Second, the Housing and Economic Recovery Act expressly requires the government to consider how its actions affect private ownership of the companies. The government has evidently given no attention to that requirement.

Third, that same law requires the government, operating Fannie and Freddie as a conservator, to safeguard their assets, but the government's new dividend scheme conserves nothing. In fact, the government has acknowledged it intends to facilitate the companies' ultimate liquidation. That is the opposite of conservatorship and it violates virtually every limitation that Congress imposed on the government's authority to intervene in Fannie and Freddie.

Some have suggested that this illegal extinction of private investment is justified by the extraordinary levels of support that taxpayers provided to Fannie and Freddie during the financial crisis. Certain recent legislative proposals even purport retroactively to legalize the government's cash-grab in the name of ensuring the taxpayers are repaid. But the companies' return to profitability means that taxpayers likely will be repaid in full, with interest, by the end of next year.

In these circumstances the right thing to do is to permit the companies to pay down what they owe to the government's investment so that private investors also might have the opportunity to earn returns on theirs. Yet, the "right thing" here is not just what the law requires. It may benefit the taxpayers as well. If Fannie and Freddie ever return to private ownership, the government has rights to 80% of the companies' common stock.

The government's recent cash grab squanders that opportunity, but it threatens even more serious harms. The United States has the most liquid securities markets in the world only because of its strong commitment to the rule of law and respect for private property. The government's actions here are an affront to those commitments.

Mr. Olson, a former U.S. solicitor general, is a partner at Gibson, Dunn & Crutcher.

THE WALL STREET JOURNAL.

Now Uncle Sam Is Ripping Off Fannie and Freddie

By David Skeel

February 27, 2014

<http://online.wsj.com/news/articles/SB10001424052702304610404579404811651661726>

Next month Fannie Mae and Freddie Mac, the giant enterprises that own or guarantee roughly half of all new mortgages, will hand over \$7.2 billion to the U.S. Treasury, paying back more than the entire amount of their bailout. The achievement, which once seemed unimaginable, should be good news for the companies' many private shareholders. It isn't. Thanks to astonishingly duplicitous behavior by the federal government, they may never get another dime from their investment.

The story begins in July 2008, when Congress passed the Housing and Economic Recovery Act (HERA), authorizing a new regulator, the Federal Housing Finance Agency, to take over Fannie and Freddie if necessary. The agency did so on Sept. 6, days before the collapse of Lehman Brothers.

At the time, Fannie and Freddie were desperately insolvent due to the bursting of the real-estate bubble—which sent plummeting the value of the large number of risky mortgages they had bought or guaranteed. If an ordinary corporation were in this condition, it would be sold or shut down, and any money recovered would go solely to its creditors.

HERA was intended to make this outcome possible. Previously, regulators had the power to "conserve" the mortgage giants, but not to put them into a receivership, which is used to liquidate troubled financial institutions. The new law added the receivership option, at a time when frustration was high with Fannie's and Freddie's abuses of the widespread (and correct) perception that the government would backstop all of their obligations. Not only could the Federal Housing Finance Agency put Fannie and Freddie into receivership; if the regulator determined that the mortgage giants were insolvent—rather than just troubled—HERA required the agency to do so.

And yet, while Fannie and Freddie's financial condition seemed hopeless, the agency instead put the two enterprises into a conservatorship. The decision was in some respects defensible. The government wanted to honor the millions of guarantees Fannie and Freddie had made to homeowners, and it was worried about winding down the giant companies too quickly. Still, the new law required that companies put into conservatorship be "put in a sound and solvent condition."

To keep Fannie and Freddie afloat, Treasury injected \$85 billion in return for preferred stock with seniority over the existing preferred and common stock, as well as warrants to acquire just shy of 80% of the common (voting) stock. The bailout required Fannie and Freddie to pay a 10% dividend to the government every year. When Fannie and Freddie couldn't make the initial payments, they sold more preferred stock to Treasury, increasing the government's investment and the size of the 10% obligation. The government's stake eventually climbed to roughly \$187.5 billion.

By early 2012, Fannie and Freddie started to make money. Lots of it. Thanks to a recovering real-estate market and the absence of any real competitors, their profits would eventually be big enough to pay the 10% dividend to the government and still have profits left over.

In August 2012, Treasury did something truly outrageous: It restructured the deal to make sure that Fannie and Freddie's other shareholders could never get a penny of these profits. Under the new arrangement known as the Third Amendment, any profits are subject to a "net worth sweep." In short, the 10% dividend due the U.S. Treasury was changed to 100%—forever.

We now know—thanks to a Dec. 20, 2010, memo from Jeffrey A. Goldstein, then undersecretary for domestic finance to then-Treasury Secretary Timothy Geithner that has just been uncovered in shareholder litigation against the government—that the U.S. Treasury considered cutting off shareholders long before 2012.

Why would Fannie and Freddie agree to the Third Amendment? Answer: The Federal Housing Finance Agency, which had taken the two companies over, agreed on their behalf. The regulator sat on one side of the bargaining table and Treasury on the other—one arm of the government negotiating with another. Treasury insists it was looking after taxpayers' interests. But it hasn't explained why it cut private shareholders off when it began to look like they too might benefit.

The net worth sweep was arbitrary—in essence an act of expropriation. Worse, the new arrangement gives the government a strong incentive to maintain Fannie and Freddie's privileged and dominant position in the mortgage market rather than reforming mortgage finance.

Ideally, the government would undo the 2012 sweep, and perhaps revert to the original 2008 arrangement, as part of a decision about the future of Fannie and Freddie. More likely, the issue will be decided in the courts. A number of Fannie and Freddie shareholders are challenging the sweep as, among other things, an unconstitutional taking of their property.

If they win, as they probably will, Fannie's and Freddie's shareholders will fare better than other investors (such as Chrysler's senior lenders) who have been blindsided by the government's growing penchant for picking winners and losers, regardless of the law. The courts may thus partially repair the rule of law. A far better approach would be for the government to honor it in the first place.

Mr. Skeel teaches bankruptcy law at the University of Pennsylvania Law School.

THE WALL STREET JOURNAL.

The Wrong Remedy for Fannie and Freddie

By Josh Rosner

March 27, 2014

<http://online.wsj.com/news/articles/SB10001424052702304418404579462962749649106#printMode>

More than five years after a mortgage mania led to a global financial crisis rivaling the Great Depression, Washington is finally turning to home-loan finance reform. Early in April the Senate Banking Committee will vote on a bill by Chairman Tim Johnson and ranking Republican Mike Crapo that claims to eliminate Fannie Mae and Freddie Mac, the government-sponsored enterprises that blurred the lines between public and private companies and were a central weakness of the pre-crisis system.

Unfortunately, the bill replaces Fannie and Freddie with an untold number of new government-sponsored enterprises by handing a massive taxpayer backstop to the nation's largest banks. These banks will also profit handsomely from large mortgage volumes as a result of the bill.

As a financial-services analyst, I watched—and warned of—structural and oversight problems in mortgage markets beginning in 2001. Weak underwriting standards, inadequate capital, excessive leverage, no transparency or accountability in securitizations, and perverse economic incentives were driving inappropriate behavior by market participants. Each of these problems increased systemic risk and led investors to feel secure that the government would backstop financial institutions in a crisis.

Political pressure on Fannie and Freddie and private lenders to reduce underwriting requirements supported those firms' goals of increased business volumes and nominally increased homeownership while generating political gains. The result was millions of borrowers trapped in homes they couldn't afford and the public on the hook through bailouts and expansion of the Federal Reserve's balance sheet.

Rather than fix these problems, legislators seek to demolish the current mortgage market and build, from scratch, a new system that makes things worse. They put at its center a new regulator, the Federal Mortgage Insurance Corporation, with a fundamentally conflicted mission—combining safety and soundness, affordable-housing goals and consumer protection. The bill will have the effect of increasing rather than reducing the concentration of lending in the hands of a few large banks. Under the legislation the government will also sponsor mortgage aggregators, insurance entities and a mutually owned securitization platform.

Our largest financial firms will use their public homeownership mission to push for eased lending standards. In good times lenders and their shareholders will enjoy the profits generated by higher mortgage volumes, and in bad times the public will again be stuck holding the bag. Sound familiar?

To avoid public outcry, Messrs. Johnson and Crapo contend that private capital will take the first 10% of losses ahead of the government. But where is that capital coming from? They say, without basis, that the necessary \$500 billion of "required" private capital will appear.

If sufficient capital doesn't magically appear, the bill allows regulators to waive this "first loss" requirement and commit the "full faith and credit of the United States" when necessary to support the market. Such a waiver would no doubt come when lending becomes scarcer—during times of financial stress. Unlike the

unpopular Troubled Asset Relief Program, which forced lawmakers to justify using billions of taxpayer dollars to support failing financial firms, this bill requires no congressional authorization, letting the regulator justify such a commitment only after the fact.

So why are legislators designing a new system that risks a fragile housing recovery, creates explicitly guaranteed supports for new government-sponsored enterprises, relies on phantom capital, and recklessly endangers the public? Perhaps the answer is the housing industrial complex—that web of affordable-housing groups that want to deliver loans to "underserved" markets, lenders and other private participants that profit from higher mortgage volumes, and the politicians who like the illusion of homeownership.

As for those politicians, this bill provides something for everyone on both sides of the aisle. The Republicans get to wipe out Fannie and Freddie, punishing their longtime Washington enemies for past political sins. Meanwhile the Democrats can avoid future political attacks by hiding government support for housing in a new opaque system that looks remarkably like the one that failed miserably a few years ago.

Rather than introducing an entirely new system, we should require financial institutions to have meaningful levels of capital, put real constraints on the ability of Fannie and Freddie to leverage their balance sheets, and ensure that mortgages are priced commensurately with the underlying credit risks. In regulating firms whose chartered function is to ensure availability of mortgage credit during a crisis, we should only allow them to earn utility-like rates of return, so in good times these firms build capital sufficient to ensure lending in bad times.

The Johnson-Crapo bill reinstates a model in which private players profit from public government support. If it becomes law, we will have failed to create a sustainable system of building home equity, even among the most at-risk, lower-income borrowers. We will also have failed to fulfill the real American dream of homeownership.

Mr. Rosner is managing director of Graham Fisher & Co. and co-author with Gretchen Morgenson, of "Reckless Endangerment: How Outsized Ambition, Greed, and Corruption Led to Economic Armageddon" (Times Books, 2011).

THE WALL STREET JOURNAL.

With All Profits To The Treasury, A Bailout Or A Taking?

By Tim Pagliara

March 13, 2014

<http://online.wsj.com/news/articles/SB10001424052702303795904579433380904420054#printMode>

The Treasury's illegal taking of all future dividends from Fannie Mae and Freddie Mac stockholders is wrong.

Reps. John K. Delaney, John Carney and Jim Himes (Letters, March 10) are calling on the federal government to stand by the Treasury's illegal taking of all future dividends from Fannie Mae and Freddie Mac stockholders. This demonstrates, at minimum, their basic lack of understanding of constitutional and corporate law. The administration certainly exhibits a willingness to violate laws and principles—evidenced most blatantly in memos that recently came to light that explicitly state the Treasury's intention to essentially confiscate the investors' private property. Fannie and Freddie paid their bailout debt back quickly and with interest.

The government increasingly appears to be less interested in offering a helping hand than in hijacking these venerable institutions now that the housing crisis is behind us. This leaves shareholder rights trampled, the wider investment community uneasy, and Fannie-Freddie investors—whose numbers include pension funds, banks, credit unions, insurance companies and plenty of American taxpayers (including myself) that the congressmen purport to be so sympathetic with—holding worthless paper.

It's no wonder Judge Margaret M. Sweeney of the U.S. Court of Federal Claims just granted a motion to conduct discovery in a lawsuit against the U.S. government for its outrageous conduct toward Fannie Mae and Freddie Mac investors. Finally, the Treasury will have to explain when and how its conservatorship of the government-sponsored enterprises will end.

The collective strength of the American taxpayers backed our system when confidence in the system failed. Stop blaming Fannie and Freddie. They were not the cause and have been a big part of the solution. If those in Congress want "a stable system" that safeguards against abuse, it should start with rectifying its own failures and honoring what is due to shareholders.



Fannie, Freddie Policy Robs Good-Faith Investors

By Tim Pagliara

November 30, 2013

http://www.tennessean.com/article/20131130/OPINION03/311300021?nclick_check=1

A major issue that should be of great importance to all of us is the current debate taking place in Congress over the future of Fannie Mae and Freddie Mac. These two institutions have played a key role in our nation's economy and housing industry, and together they help back about two-thirds of all new home loans in the U.S.

Earlier this month, it was announced that Freddie Mac and Fannie Mae will soon return \$39 billion to the U.S. Treasury after reporting strong third-quarter profits, bringing their total payments to within about \$2 billion of the cash aid they got after the nation's housing and financial crisis.

Facing insolvency at the height of the crisis in 2008, the federal government used nearly \$200 billion in taxpayer funds to bail out Fannie Mae and Freddie Mac, the two so-called government-sponsored enterprises (or GSEs) that supply the cash that banks and other mortgage lenders provide to homebuyers.

This happened when the director of the Federal Housing Finance Agency placed Fannie and Freddie into a conservatorship run by the FHFA in a move publicly supported by both then Treasury Secretary Henry Paulson and Fed Chairman Ben Bernanke.

According to the terms of that conservatorship, in exchange for future support and capital investments of up to \$100 billion in the GSEs, Fannie and Freddie each issued to the Treasury \$1 billion of senior preferred stock, with a 10 percent coupon, without cost to the government.

But then, on Aug. 7, 2012, the Obama Treasury Department suddenly and arbitrarily imposed what is known as "Amendment Three" to the conservancy action that, in effect, changed the 10 percent coupon to a 100 percent coupon — effectively wiping out all other private shareholders who invested in Fannie and Freddie before, during and after the housing crisis.

This group of private shareholders includes individual investors and retirees here in Tennessee; private 401(k) funds; public pension funds like the Tennessee Consolidated Retirement System, which protects our state employees and schoolteachers; and community banks, insurance companies and other investors all across Tennessee and the nation.

Yet, even though both Fannie and Freddie are now extraordinarily profitable again, and the taxpayers will soon be repaid in full for all of the bailout funds, a group of lawmakers, led by our own Sen. Bob Corker, has decided to double down on the government's strong-arm approach by codifying the Treasury's 100 percent confiscation of dividends — when a significant portion of those dividends and future dividends are clearly owed to the private investors.

At a time when our economy and the housing recovery need even more private investment to help get things moving again, violating the trust of such investors is the last thing the government should do. And the notion that government can just confiscate private property any time it wants, without recourse, is simply outrageous and should be totally unacceptable.

Fannie and Freddie should absolutely be reformed so taxpayers can be protected against future financial threats, but Sen. Corker and the Treasury Department should not be allowed to change the terms of the government's original agreement in a way that enriches the government while permanently shortchanging the original investors.

I have always been one of Sen. Corker's strongest supporters, but on this issue, he has clearly missed the mark. Sen. Corker and the Obama Treasury Department should look for strong and simple reforms that further depoliticize and strengthen, not destroy, Fannie and Freddie.

It is time for them to protect both the rights of the American taxpayers and the American investors who supported these institutions in such good faith.

Tim Pagliara is chief executive officer of CapWealth Advisors in Franklin.

THE HUFFINGTON POST

Housing Reform Should Create Wealth

By Eva Clayton

April 29, 2014

http://www.huffingtonpost.com/eva-m-clayton/housing-reform-should-cre_b_5229295.html

As the Senate Banking Committee prepares to markup the Johnson-Crapo housing reform legislation, which seeks to wind down the government sponsored enterprises (GSEs) Fannie Mae and Freddie Mac, Democrats on the Banking Committee, including my senator, Kay Hagan, should take into account an initiative called With Ownership Wealth. With Ownership Wealth (WOW), put forth by the Congressional Black Caucus Foundation (CBCF) while I served in Congress and chaired the Foundation's board, aims to help African-American families across the country become homeowners.

Homeownership for millions of middle class families around the country, including rural communities like those in Warren County, North Carolina provides stability and economic security for families and contributes to the effervescence and wealth of communities.

Perhaps we should get rid of any semblance of what happened during the housing bubble by liquidating the GSEs, removing the systemic risk of a new entity, and empowering a stronger regulator with the backing of the Federal Government. Unfortunately, Johnson-Crapo fails to include explicit affordable housing goals, violates the rule of law by wiping out Fannie and Freddie private shareholders -institutional investors, community banks, pensions and individual investors -- and leaves no room for small lending institutions to play a role in serving markets that the big banks ignore -- markets that tend to be more urban and rural.

Several weeks ago, Congresswoman Maxine Waters (D-CA), ranking member on the House Financial Services Committee, introduced legislation that recognizes and addresses many of the flaws found in the Johnson-Crapo draft. For Democrats on the Banking Committee, the Waters bill should serve as a guide for a policy solution that could help create opportunities for homeownership while simultaneously protecting taxpayers. It's also worth pointing out that the Waters legislation would not punish investors by codifying the third amendment, as Johnson-Crapo does. Affordable housing depends on investors, and investors need certainty.

Unfortunately, conservatives would have you believe that the downturn in the housing market or the bubble's inflation was largely caused by Fannie Mae and Freddie Mac, particularly the affordable housing goals Congress set during the late '90s and early 2000s. However, the facts bare the opposite truth. Yes, subprime loans and the fast and loose way in which Fannie and Freddie bought their own faulty products were a contributing factor to the downturn, but a study from the Federal Reserve Bank of St. Louis found that "affordable housing goals had no observable impact."

Being a champion of homeownership or affordable housing options is not risky policy, it is essential to growing wealth. In fact, homeownership for white families has been noted as a key contributing factor to building a solid white middle class.

For African-Americans, homeownership was around 50 percent pre-economic downturn, or during the housing boom, but now hovers around 44 percent compared to the rates of whites, which at its peak was around 76 percent and is now 73 percent. For Latinos, homeownership is 28 percentage points lower than whites. That stark difference in homeownership rates contributes heavily to the median net worth of white households which is nearly 20 times that of African American households.

The CBCF's idea of homeownership was visionary; ownership is empowering for communities and generations of families. Unfortunately, as pointed out by many civil rights organizations, there are provisions of the Johnson-Crapo discussion draft that will only exacerbate the current disparities in homeownership rates.

Republicans have done the right thing before. In 2002, President George W. Bush pledged to increase African-American homeownership through his single family affordable housing tax credit that sought to spur homeownership opportunities for more than 5 million new African-American homeowners. At the time, the CBCF applauded President Bush's efforts because we agree that homeownership would strengthen the country's middle class.

So why, then, are we here contemplating scrapping entirely a system that has worked? The short answer is that Fannie and Freddie are serving as the last scapegoat from the slump and despair of the post-crisis housing market that was put on the chopping block in populist fervor. While bipartisanship is certainly a rarity in Washington these days, let's hope members of Congress are not rushing to revamp one-sixth of our economy to get the politics right. Serious compromise and commitment is needed to get the policy right too.



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