



The GSEs and Conservatorship: A Recent Timeline

March 2019: A Presidential Memo requiring GSE Reform

- The Trump Administration directed Treasury and HUD to produce sweeping reform plans to the housing finance market.
- The presidential memo has significant policy implications, focusing on increasing the soundness of Fannie Mae and Freddie Mac and increasing competition in the secondary mortgage market. The memo, however, also sets out quite low requirements for ending the conservatorship of Fannie and Freddie, indicating that the administration favors the “recap and release” approach to reform for the mortgage giants.
- The presidential memo represents the most significant policy development in the decade since the GSEs were put into conservatorship.

April - June 2019: Director Calabria Makes His Case

- April 4 – Doctor Mark Calabria confirmed as Director of the FHFA
- May – Dir. Calabria confirms that it is fully within his power to end conservatorships; sets out his vision for reform
- June – Dir. Calabria requests that Congress invest the FHFA with chartering authority



July 2019: The CFPB Announces an End to the QM Patch

- The Consumer Financial Protection Bureau (CFPB) requires that all mortgage borrowers have a debt-to-income ratio of below 43 percent (the “Qualified Mortgage,” or QM, rule), but it created an exception for mortgages backed by Fannie Mae and Freddie Mac (the QM Patch).
- The QM Patch allows Fannie Mae and Freddie Mac to breach CFPB regulations by backing mortgages to borrowers with a higher ratio of debt to income, but the CFPB has indicated that it will allow the QM Patch to expire in 2021, eliminating this privilege.
- While allowing the QM Patch to expire will likely decrease mortgage availability, particularly for those with low incomes, it also will necessarily decrease the systemic risk implicit in the U.S. housing sector.

September 2019: Reform Plans and Net Worth Sweep

- Treasury and HUD released their housing finance reform plans at the direction of the March presidential memo.
 - *Congressional / administrative*
 - *Confirmed recapitalization*
 - *Competition promoted*
 - *FSOC to be involved*
- Treasury and FHFA announced that the Net Worth Sweep would be amended to allow the GSEs to retain an aggregate \$45 billion.

May 2020: The Proposed GSE Capital Rule (1/2)

- In late May 2020 the FHFA re-proposed a 2018 rule dictating the capital requirements for Fannie Mae and Freddie Mac were they to be released from conservatorship.
- At its core, the 2018 (and 2020) capital rule proposal would require Fannie and Freddie to hold in capital the higher of either a minimum leverage ratio or a risk-based capital requirement.
- **Key takeaway:** the 2020 proposed rule would require Fannie and Freddie to hold a combined \$244 billion in capital, far higher than the combined \$23.5 billion they currently hold, and would add a significant number of additional capital buffers borrowed liberally from banking regulation.

May 2020: The Proposed GSE Capital Rule (2/2)

The good...

- ... a more thoughtful and nuanced take on capital requirements
- ... the possible benefits of countercyclicality

The bad...

- ... the proposed capital level is both too high;
- ... and too low.

The ugly...

- ... the proposed GSE capital requirement is not a *legal* requirement for ending conservatorship
- ... no word yet on how the GSEs should be considered by the FSOC.

The Path Ahead

2019 (and to a much lesser extent 2020) saw significant reform efforts, and the administration should be commended for more reform initiatives in a very short period than in the 11 years prior.

Practically speaking:

- Building up capital (retention of earnings and outside investment)
- We may see further adjustment of the Net Worth Sweep (Congressional involvement?)
- Release via consent order prior to election?
- Any reform likely to increase mortgage prices and decrease mortgage availability.

But how does the reform we have seen match against any ideal criteria for comprehensive reform?