

## [Banking and Finance Law Daily Wrap Up, TOP STORY—Housing finance reform: Prevent bailouts; preserve 30-year mortgage; refocus FHA, \(Sept. 6, 2019\)](#)

Banking and Finance Law Daily Wrap Up

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Housing finance reform plans released by the Treasury Department and HUD would prevent bailouts, preserve 30-year fixed rate mortgages, and refocus the FHA.

The Treasury Department and the Department of Housing and Urban Development have issued complementary housing finance reform plans. These plans were issued in response to executive action taken by the president in March 2019.

**Executive action.** The March 2019 [Presidential Memorandum](#) directed the Treasury Department to develop an administrative and legislative framework to reform the country's housing finance system to reduce taxpayer risks, expand the private sector's role, modernize government housing programs, and achieve sustainable home ownership. HUD was also directed to develop a plan for administrative and legislative reforms to achieve several housing reform goals, including attempting to ensure that the Federal Housing Administration and Government National Mortgage Association (Ginnie Mae) assume primary responsibility for providing housing finance support to low- and moderate-income families that cannot be fulfilled through traditional underwriting. (see [Banking and Finance Law Daily](#), March 28, 2019).

**Limited government support.** The [Treasury Department's plan](#) provides nearly 50 recommended legislative and administrative reforms that call for a limited role for the federal government. To that end, the federal government's support of the secondary market should be explicitly defined, tailored, and paid-for. Also, the conservatorships of the government-sponsored enterprises—Fannie Mae and Freddie Mac—should come to an end.

The plan also recommends reforms to enhance taxpayer protections against future bailouts. To achieve this objective, the plan calls for the GSEs and their successors to be appropriately capitalized to remain viable as going concerns after a severe economic downturn and to ensure that shareholders and unsecured creditors bear losses.

In addition, the plan seeks to promote private sector competition in the housing finance system and end the regulatory framework that is biased in favor of GSE-supported mortgage lending and that only increased under the Dodd-Frank Act. The Treasury Department's plan noted that ending this bias "will level the playing field between the GSEs and private sector competitors by simplifying the Consumer Financial Protection Bureau's qualified mortgage (QM) rule and eliminating the QM patch, reducing unnecessary regulatory impediments to responsible private-label securitization, and limiting certain GSE activities for which government support is not necessary or justified.

The Treasury Department noted that it prefers that Congress enact comprehensive housing finance reform legislation; and is not averse to "an explicit, paid-for guarantee backed by the full faith and credit of the Federal Government that is limited to the timely payment of principal and interest on qualifying mortgage-backed securities."

**FHA and Ginnie Mae reforms.** The [plan](#) submitted by HUD calls for refocusing the FHA to its core mission "of helping low- and moderate-income borrowers with good credit—yet limited assets—afford a home and build wealth." The plan also calls for the FHA to collaboratively work with the Federal Housing Finance Agency "to ensure that government-supported mortgage programs are not competing and do not crowd private capital out

of the marketplace, both in their Single Family and Multifamily programs." Other HUD recommendations would ensure no taxpayer bailouts by requiring the FHA to "build its capital ratio well above the statutory two percent minimum to ensure that it is able to weather stress events." Also, the plan calls for Providing the FHA and GNMA the tools to appropriately manage risk. To achieve this goal, HUD recommends that Congress modernize the FHA by re-chartering it as an autonomous government corporation within HUD, which would provide the agency tools and resources necessary to make appropriate risk decisions to respond to changing markets. Finally, the HUD plan would provide liquidity to the housing finance system. This would be accomplished by allowing Ginnie Mae to provide an explicit, paid-for guaranty of the timely payment of principal and interest on qualifying mortgage-backed securities that are guaranteed by the GSEs and any potential competitor guarantors that might be chartered by the FHFA.

Upon the release of its plan, Treasury Secretary Steven T. Mnuchin [stated](#), "The Trump Administration is committed to promoting much needed reforms to the housing finance system that will protect taxpayers and help Americans who want to buy a home." He added, "An effective and efficient Federal housing finance system will also meaningfully contribute to the continued economic growth under this Administration."

Commenting on the HUD plan, Brian Montgomery, FHA Commissioner and Assistant Secretary of Housing [said](#), "FHA and Ginnie Mae should focus on helping families and individuals in their respective programs become sustainable homeowners while minimizing risk to the taxpayer to the greatest extent possible."

**Congressional reaction.** Following release of the plans, leadership of the House Financial Services Committee and the Senate Banking, Housing, and Urban Affairs Committee weighed in, with their comments falling within party lines.

House Financial Services Committee Chairman Maxine Waters (D-Calif) [said](#), "it is critical that housing finance reform proposals do not diminish opportunities for homeownership, increase housing costs, or make housing less available." She added, "However, Trump's plan appears to do just that. The proposal raises serious concerns about the future of housing in this country, particularly affordable housing. One of the most egregious parts of this proposal—and one which could cause significant damage for low-income persons and communities of color—is the replacement of the affordable housing goals with a fee that would fail to adequately support affordable housing. This would hamper the ability of millions of underserved families to achieve the dream of homeownership. I look forward to addressing these concerns with administration officials directly when they testify before the Committee."

The Senate Banking Committee's Ranking Member Sherrod Brown (D-Ohio) [said](#), "President Trump's housing plan will make mortgages more expensive and harder to get. I'm urging the President: Make it easier for working people to buy or rent their homes, not harder."

Banking Committee Chairman Mike Crapo (R-Idaho) [noted](#), "The Treasury Department's report makes many legislative recommendations that are consistent with my outline by attracting private capital back into the market, protecting taxpayers against bailouts and promoting competition. My preference is to fix the housing finance system through legislation and I look forward to working with all of my colleagues as we move forward. At the same time, it is important for the Administration to begin moving forward on key administrative reforms outlined in the Treasury Department and HUD reports."

Sen. Crapo released his housing finance reform outline in early February 2019 which called for stronger levels of taxpayer protection, preserving the 30-year fixed rate mortgage, increasing competition among mortgage guarantors, and promoting access to affordable housing (see [Banking and Finance Law Daily](#), Feb. 4, 2019).

Finally, the Ranking Member of the House Financial Services Committee, Patrick McHenry (R-NC) [stated](#), "Americans deserve better than the status quo. The Trump Administration's proposal is a positive first step on the multi-year path to building a housing finance system that makes the goal of homeownership more achievable for borrowers." He added, "We need a long-term solution to this decade-old problem. I look forward to continuing to work with my colleagues, stakeholders, and this Administration to identify meaningful reforms. I am

confident we share the same objective of fostering a competitive and well-regulated mortgage marketplace, while protecting taxpayers from the current, unsustainable system."

**Industry reaction.** John Berlau, a senior fellow at the Competitive Enterprise Institute, [said](#), "The Trump administration's housing finance reform plan contains many positive steps to both reduce the government's role in the housing market and to help ensure a vibrant and competitive housing sector." He did note, however, that "The plan's call for creating explicit guarantees is problematic, though, as they would likely become a floor, rather than a ceiling, for government housing support. We look forward to productive discussions with the administration and members of Congress about much-needed housing market reforms."

Rob Nichols, president and CEO of the American Bankers Association [said](#), "We are pleased that the Treasury plan reflects many of the reform principles that ABA has championed, including an explicit, fully priced and fully paid for guarantee as well as protection for taxpayers. Housing finance is a significant segment of the American economy, as well as an essential aspect of every American's life. We are committed to working with the Administration and Congress to develop an accessible and sustainable housing finance system that fosters equitable and affordable access to all."

Finally, Robert D. Broeksmit, president and CEO of the Mortgage Bankers Association, applauded the Treasury Department and HUD plans. He [noted](#), "The reports recognize the need to better coordinate the roles of FHA and the GSEs. Such coordination must preserve affordable financing options for a wide range of borrowers and reflect the vital role FHA plays in the larger housing finance system."

Companies: American Bankers Association, Competitive Enterprise Institute, Fannie Mae, Freddie Mac, Mortgage Bankers Association

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