

111TH CONGRESS
1ST SESSION

H. R. 1106

To prevent mortgage foreclosures and enhance mortgage credit availability.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 23, 2009

Mr. CONYERS (for himself, Mr. FRANK of Massachusetts, Mr. BERMAN, Mr. BLUMENAUER, Mr. COHEN, Mr. DELAHUNT, Ms. EDWARDS of Maryland, Mr. ELLISON, Mr. GONZALEZ, Mr. GUTIERREZ, Ms. JACKSON-LEE of Texas, Mr. JOHNSON of Georgia, Mr. LEWIS of Georgia, Ms. ZOE LOFGREN of California, Mr. MILLER of North Carolina, Mr. NADLER of New York, Ms. LINDA T. SÁNCHEZ of California, Ms. WASSERMAN SCHULTZ, Ms. WATERS, and Mr. MARSHALL) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prevent mortgage foreclosures and enhance mortgage credit availability.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as “Help-
5 ing Families Save Their Homes Act of 2009”.

1 (b) TABLE OF CONTENTS.—The table of contents of
 2 this Act is the following:

Sec. 1. Short title; table of contents.

TITLE I—PREVENTION OF MORTGAGE FORECLOSURES

Subtitle A—Modification of Residential Mortgages

- Sec. 101. Eligibility for relief.
 Sec. 102. Prohibiting claims arising from violations of the Truth in Lending Act.
 Sec. 103. Authority to modify certain mortgages.
 Sec. 104. Combating excessive fees.
 Sec. 105. Confirmation of plan.
 Sec. 106. Discharge.
 Sec. 107. Standing trustee fees.
 Sec. 108. Effective date; application of amendments.

Subtitle B—Related Mortgage Modification Provisions

- Sec. 121. Adjustments as a result of modification in bankruptcy of housing loans guaranteed by the department of veterans affairs.
 Sec. 122. Payment of FHA mortgage insurance benefits.
 Sec. 123. Adjustments as result of modification of rural single family housing loans in bankruptcy.
 Sec. 124. Unenforceability of certain provision as being contrary to public policy.

TITLE II—FORECLOSURE MITIGATION AND CREDIT AVAILABILITY

- Sec. 201. Servicer safe harbor for mortgage loan modifications.
 Sec. 202. Changes to HOPE for Homeowners Program.
 Sec. 203. Requirements for FHA-approved mortgagees.
 Sec. 204. Enhancement of liquidity and stability of insured depository institutions to ensure availability of credit and reduction of foreclosures.

3 **TITLE I—PREVENTION OF**
 4 **MORTGAGE FORECLOSURES**
 5 **Subtitle A—Modification of**
 6 **Residential Mortgages**

7 **SEC. 101. ELIGIBILITY FOR RELIEF.**

8 Section 109 of title 11, United States Code, is
 9 amended—

1 (1) by adding at the end of subsection (e) the
2 following: “For purposes of this subsection, the com-
3 putation of debts shall not include the secured or
4 unsecured portions of—

5 “(1) debts secured by the debtor’s principal res-
6 idence if the value of such residence as of the date
7 of the order for relief under chapter 13 is less than
8 the applicable maximum amount of noncontingent,
9 liquidated, secured debts specified in this subsection;
10 or

11 “(2) debts secured or formerly secured by what
12 was the debtor’s principal residence that was sold in
13 foreclosure or that the debtor surrendered to the
14 creditor if the value of such real property as of the
15 date of the order for relief under chapter 13 was less
16 than the applicable maximum amount of noncontin-
17 gent, liquidated, secured debts specified in this sub-
18 section.”), and

19 (2) by adding at the end of subsection (h) the
20 following:

21 “(5) The requirements of paragraph (1) shall not
22 apply in a case under chapter 13 with respect to a debtor
23 who submits to the court a certification that the debtor
24 has received notice that the holder of a claim secured by

1 the debtor’s principal residence may commence a fore-
2 closure on the debtor’s principal residence.”.

3 **SEC. 102. PROHIBITING CLAIMS ARISING FROM VIOLA-**
4 **TIONS OF THE TRUTH IN LENDING ACT.**

5 Section 502(b) of title 11, United States Code, is
6 amended—

7 (1) in paragraph (8) by striking “or” at the
8 end,

9 (2) in paragraph (9) by striking the period at
10 the end and inserting “; or”, and

11 (3) by adding at the end the following:

12 “(10) the claim for a loan secured by a security
13 interest in the debtor’s principal residence is subject
14 to a remedy for rescission under the Truth in Lend-
15 ing Act notwithstanding the prior entry of a fore-
16 closure judgment, except that nothing in this para-
17 graph shall be construed to modify, impair, or super-
18 sede any other right of the debtor.”.

19 **SEC. 103. AUTHORITY TO MODIFY CERTAIN MORTGAGES.**

20 Section 1322 of title 11, United States Code, is
21 amended—

22 (1) in subsection (b)—

23 (A) by redesignating paragraph (11) as
24 paragraph (12),

1 (B) in paragraph (10) by striking “and” at
2 the end, and

3 (C) by inserting after paragraph (10) the
4 following:

5 “(11) notwithstanding paragraph (2), with re-
6 spect to a claim for a loan originated before the ef-
7 fective date of this paragraph and secured by a secu-
8 rity interest in the debtor’s principal residence that
9 is the subject of a notice that a foreclosure may be
10 commenced with respect to such loan, modify the
11 rights of the holder of such claim (and the rights of
12 the holder of any claim secured by a subordinate se-
13 curity interest in such residence)—

14 “(A) by providing for payment of the
15 amount of the allowed secured claim as deter-
16 mined under section 506(a)(1);

17 “(B) if any applicable rate of interest is
18 adjustable under the terms of such loan by pro-
19 hibiting, reducing, or delaying adjustments to
20 such rate of interest applicable on and after the
21 date of filing of the plan;

22 “(C) by modifying the terms and condi-
23 tions of such loan—

24 “(i) to extend the repayment period
25 for a period that is no longer than the

1 longer of 40 years (reduced by the period
2 for which such loan has been outstanding)
3 or the remaining term of such loan, begin-
4 ning on the date of the order for relief
5 under this chapter; and

6 “(ii) to provide for the payment of in-
7 terest accruing after the date of the order
8 for relief under this chapter at a fixed an-
9 nual rate equal to the currently applicable
10 average prime offer rate as of the date of
11 the order for relief under this chapter, cor-
12 responding to the repayment term deter-
13 mined under the preceding paragraph, as
14 published by the Federal Financial Institu-
15 tions Examination Council in its table enti-
16 tled ‘Average Prime Offer Rates—Fixed’,
17 plus a reasonable premium for risk; and

18 “(D) by providing for payments of such
19 modified loan directly to the holder of the claim
20 or, at the discretion of the court, through the
21 trustee during the term of the plan; and”, and
22 (2) by adding at the end the following:

23 “(g) A claim may be reduced under subsection
24 (b)(11)(A) only on the condition that if the debtor sells
25 the principal residence securing such claim, before com-

1 pleting all payments under the plan (or, if applicable, be-
2 fore receiving a discharge under section 1328(b)) and re-
3 ceives net proceeds from the sale of such residence, then
4 the debtor agrees to pay to such holder not later than 15
5 days after receiving such proceeds—

6 “(1) if such residence is sold in the 1st year oc-
7 ccurring after the effective date of the plan, 80 per-
8 cent of the amount of the difference between the
9 sales price and the amount of such claim as origi-
10 nally determined under section 1322(b)(11) (plus
11 costs of sale and improvements), but not to exceed
12 the unpaid amount of the allowed secured claim de-
13 termined as if such claim had not been reduced
14 under such subsection;

15 “(2) if such residence is sold in the 2d year oc-
16 ccurring after the effective date of the plan, 60 per-
17 cent of the amount of the difference between the
18 sales price and the amount of such claim as origi-
19 nally determined under section 1322(b)(11) (plus
20 costs of sale and improvements), but not to exceed
21 the unpaid amount of the allowed secured claim de-
22 termined as if such claim had not been reduced
23 under such subsection;

24 “(3) if such residence is sold in the 3d year oc-
25 ccurring after the effective date of the plan, 40 per-

1 cent of the amount of the difference between the
2 sales price and the amount of such claim as origi-
3 nally determined under section 1322(b)(11) (plus
4 costs of sale and improvements), but not to exceed
5 the unpaid amount of the allowed secured claim de-
6 termined as if such claim had not been reduced
7 under such subsection; and

8 “(4) if such residence is sold in the 4th year oc-
9 ccurring after the effective date of the plan, 20 per-
10 cent of the amount of the difference between the
11 sales price and the amount of such claim as origi-
12 nally determined under section 1322(b)(11) (plus
13 costs of sale and improvements), but not to exceed
14 the unpaid amount of the allowed secured claim de-
15 termined as if such claim had not been reduced
16 under such subsection.

17 “(h) With respect to a claim of the kind described
18 in subsection (b)(11), the plan may not contain a modi-
19 fication under the authority of subsection (b)(11)—

20 “(1) in a case commenced under this chapter
21 after the expiration of the 15-day period beginning
22 on the effective date of this subsection, unless—

23 “(A) the debtor certifies that the debtor
24 attempted, not less than 15 days before the
25 commencement of the case, to contact the hold-

1 er of such claim (or the entity collecting pay-
2 ments on behalf of such holder) regarding
3 modification of the loan that is the subject of
4 such claim; or

5 “(B) a foreclosure sale is scheduled to
6 occur on a date in the 30-day period beginning
7 on the date the case is commenced; and

8 “(2) in any other case pending under this chap-
9 ter, unless the debtor certifies that the debtor at-
10 tempted to contact the holder of such claim (or the
11 entity collecting payments on behalf of such holder)
12 regarding modification of the loan that is the subject
13 of such claim, before—

14 “(A) filing a plan under section 1321 that
15 contains a modification under the authority of
16 subsection (b)(11); or

17 “(B) modifying a plan under section 1323
18 or 1329 to contain a modification under the au-
19 thority of subsection (b)(11).

20 “(i) In determining the holder’s allowed secured claim
21 under section 506(a)(1) for purposes of subsection
22 (b)(11)(A), the value of the debtor’s principal residence
23 shall be the fair market value of such residence on the
24 date such value is determined.”.

1 **SEC. 104. COMBATING EXCESSIVE FEES.**

2 Section 1322(c) of title 11, United States Code, is
3 amended—

4 (1) in paragraph (1) by striking “and” at the
5 end,

6 (2) in paragraph (2) by striking the period at
7 the end and inserting a semicolon, and

8 (3) by adding at the end the following:

9 “(3) the debtor, the debtor’s property, and
10 property of the estate are not liable for a fee, cost,
11 or charge that is incurred while the case is pending
12 and arises from a debt that is secured by the debt-
13 or’s principal residence except to the extent that—

14 “(A) the holder of the claim for such debt
15 files with the court and serves on the trustee,
16 the debtor, and the debtor’s attorney (annually
17 or, in order to permit filing consistent with
18 clause (ii), at such more frequent periodicity as
19 the court determines necessary) notice of such
20 fee, cost, or charge before the earlier of—

21 “(i) 1 year after such fee, cost, or
22 charge is incurred; or

23 “(ii) 60 days before the closing of the
24 case; and

25 “(B) such fee, cost, or charge—

1 “(i) is lawful under applicable non-
2 bankruptcy law, reasonable, and provided
3 for in the applicable security agreement;
4 and

5 “(ii) is secured by property the value
6 of which is greater than the amount of
7 such claim, including such fee, cost, or
8 charge;

9 “(4) the failure of a party to give notice de-
10 scribed in paragraph (3) shall be deemed a waiver
11 of any claim for fees, costs, or charges described in
12 paragraph (3) for all purposes, and any attempt to
13 collect such fees, costs, or charges shall constitute a
14 violation of section 524(a)(2) or, if the violation oc-
15 curs before the date of discharge, of section 362(a);
16 and

17 “(5) a plan may provide for the waiver of any
18 prepayment penalty on a claim secured by the debt-
19 or’s principal residence.”.

20 **SEC. 105. CONFIRMATION OF PLAN.**

21 Section 1325(a) of title 11, United States Code, is
22 amended—

23 (1) in paragraph (5) by inserting “except as
24 otherwise provided in section 1322(b)(11),” after
25 “(5)”,

1 (2) in paragraph (8) by striking “and” at the
2 end,

3 (3) in paragraph (9) by striking the period at
4 the end and inserting a semicolon, and

5 (4) by inserting after paragraph (9) the fol-
6 lowing:

7 “(10) notwithstanding subclause (I) of para-
8 graph (5)(B)(i), whenever the plan modifies a claim
9 in accordance with section 1322(b)(11), the holder
10 of a claim whose rights are modified pursuant to
11 section 1322(b)(11) shall retain the lien until the
12 later of—

13 “(A) the payment of such holder’s allowed
14 secured claim; or

15 “(B) completion of all payments under the
16 plan (or, if applicable, receipt of a discharge
17 under section 1328(b)); and

18 “(11) whenever the plan modifies a claim in ac-
19 cordance with section 1322(b)(11), the court finds
20 that such modification is in good faith and does not
21 find that the debtor has been convicted of obtaining
22 by actual fraud the extension, renewal, or refi-
23 nancing of credit that gives rise to a modified
24 claim.”.

1 **SEC. 106. DISCHARGE.**

2 Section 1328(a) of title 11, United States Code, is
3 amended—

4 (1) by inserting “(other than payments to hold-
5 ers of claims whose rights are modified under sec-
6 tion 1322(b)(11))” after “paid”, and

7 (2) in paragraph (1) by inserting “or, to the ex-
8 tent of the unpaid portion of an allowed secured
9 claim, provided for in section 1322(b)(11)” after
10 “1322(b)(5)”.

11 **SEC. 107. STANDING TRUSTEE FEES.**

12 (a) AMENDMENT TO TITLE 28.—Section
13 586(e)(1)(B)(i) of title 28, United States Code, is amend-
14 ed—

15 (1) by inserting “(I) except as provided in sub-
16 paragraph (II)” after “(i)”,

17 (2) by striking “or” at the end and inserting
18 “and”, and

19 (3) by adding at the end the following:

20 “(II) 4 percent with respect to pay-
21 ments received under section 1322(b)(11)
22 of title 11 by the individual as a result of
23 the operation of section 1322(b)(11)(D) of
24 title 11, unless the bankruptcy court
25 waives all fees with respect to such pay-
26 ments based on a determination that such

1 individual has income less than 150 per-
2 cent of the income official poverty line (as
3 defined by the Office of Management and
4 Budget, and revised annually in accord-
5 ance with section 673(2) of the Omnibus
6 Budget Reconciliation Act of 1981) appli-
7 cable to a family of the size involved and
8 payment of such fees would render the
9 debtor's plan infeasible.”.

10 (b) CONFORMING PROVISION.—The amendments
11 made by this section shall apply to any trustee to whom
12 the provisions of section 302(d)(3) of the Bankruptcy
13 Judges, United States Trustees, and Family Farmer
14 Bankruptcy Act of 1986 (Public Law 99–554; 100 Stat.
15 3121) apply.

16 **SEC. 108. EFFECTIVE DATE; APPLICATION OF AMEND-**
17 **MENTS.**

18 (a) EFFECTIVE DATE.—Except as provided in sub-
19 section (b), this subtitle and the amendments made by this
20 subtitle shall take effect on the date of the enactment of
21 this Act.

22 (b) APPLICATION OF AMENDMENTS.—

23 (1) IN GENERAL.—Except as provided in para-
24 graph (2), the amendments made by this subtitle
25 shall apply with respect to cases commenced under

1 title 11 of the United States Code before, on, or
2 after the date of the enactment of this Act.

3 (2) LIMITATION.—Paragraph (1) shall not
4 apply with respect to cases closed under title 11 of
5 the United States Code as of the date of the enact-
6 ment of this Act that are neither pending on appeal
7 in, nor appealable to, any court of the United
8 States.

9 **Subtitle B—Related Mortgage** 10 **Modification Provisions**

11 **SEC. 121. ADJUSTMENTS AS A RESULT OF MODIFICATION** 12 **IN BANKRUPTCY OF HOUSING LOANS GUAR-** 13 **ANTEED BY THE DEPARTMENT OF VETERANS** 14 **AFFAIRS.**

15 (a) IN GENERAL.—Subsection (a) of section 3732 of
16 title 38, United States Code is amended—

17 (1) in subsection (a)—

18 (A) by redesignating paragraph (2) as sub-
19 paragraph (A) of paragraph (2), and

20 (2) by inserting after subparagraph (A) the fol-
21 lowing new subparagraph:

22 “(B) In the event that a housing loan
23 guaranteed under this chapter is modified
24 under the authority provided under section
25 1322(b) of title 11, United States Code, the

1 Secretary may pay the holder of the obligation
2 the unpaid balance of the obligation due as of
3 the date of the filing of the petition under title
4 11, United States Code, plus accrued interest,
5 but only upon the assignment, transfer, and de-
6 livery to the Secretary (in a form and manner
7 satisfactory to the Secretary) of all rights, in-
8 terest, claims, evidence, and records with re-
9 spect to the housing loan.”.

10 (b) MATURITY OF HOUSING LOANS.—Paragraph (1)
11 of section (d) of section 3703 of title 38, United States
12 Code, is amended by inserting “at the time of origination”
13 after “loan”.

14 (c) IMPLEMENTATION.—The Secretary of Veterans
15 Affairs may implement the amendments made by this sec-
16 tion through notice, procedure notice, or administrative
17 notice.

18 **SEC. 122. PAYMENT OF FHA MORTGAGE INSURANCE BENE-**
19 **FITS.**

20 (a) IN GENERAL.—Subsection (a) of section 204 of
21 the National Housing Act (12 U.S.C. 1710(a)) is amend-
22 ed—

23 (1) in paragraph (1), by adding at the end the
24 following new subparagraph:

1 “(E) MODIFICATION OF MORTGAGE IN
2 BANKRUPTCY.—

3 “(i) AUTHORITY.—If an order is en-
4 tered under the authority provided under
5 section 1322(b) of title 11, United States
6 Code, that (a) determines the amount of
7 an allowed secured claim under a mortgage
8 in accordance with section 506(a)(1) of
9 title 11, United States Code, and the
10 amount of such allowed secured claim is
11 less than the amount due under the mort-
12 gage as of the date of the filing of the peti-
13 tion under title 11, United States Code, or
14 (b) reduces the interest to be paid under a
15 mortgage in accordance with section 1325
16 of such title, the Secretary may pay insur-
17 ance benefits for the mortgage as follows:

18 “(I) FULL PAYMENT AND AS-
19 SIGNMENT.—The Secretary may pay
20 the insurance benefits for the mort-
21 gage, but only upon the assignment,
22 transfer, and delivery to the Secretary
23 of all rights, interest, claims, evidence,
24 and records with respect to the mort-
25 gage specified in clauses (i) through

1 (iv) of paragraph (1)(A). The insur-
2 ance benefits shall be paid in the
3 amount equal to the original principal
4 obligation of the mortgage (with such
5 additions and deductions as the Sec-
6 retary determines are appropriate)
7 which was unpaid upon the date of
8 the filing of by the mortgagor of the
9 petition under title 11 of the United
10 States Code. Nothing in this Act may
11 be construed to prevent the Secretary
12 from providing insurance under this
13 title for a mortgage that has pre-
14 viously been assigned to the Secretary
15 under this subclause. The decision of
16 whether to utilize the authority under
17 this subclause for payment and as-
18 signment shall be at the election of
19 the mortgagee, subject to such terms
20 and conditions as the Secretary may
21 establish.

22 “(II) ASSIGNMENT OF UNSE-
23 CURED CLAIM.—The Secretary may
24 make a partial payment of the insur-
25 ance benefits for any unsecured claim

1 under the mortgage, but only upon
2 the assignment to the Secretary of
3 any unsecured claim of the mortgagee
4 against the mortgagor or others arising
5 out of such order. Such assignment
6 shall be deemed valid irrespective
7 of whether such claim has been or
8 will be discharged under title 11 of
9 the United States Code. The insurance
10 benefits shall be paid in the
11 amount specified in subclause (I) of
12 this clause, as such amount is reduced
13 by the amount of the allowed secured
14 claim. Such allowed secured claim
15 shall continue to be insured under section
16 203.

17 “(III) INTEREST PAYMENTS.—
18 The Secretary may make periodic payments,
19 or a one-time payment, of insurance
20 benefits for interest payments
21 that are reduced pursuant to such
22 order, as determined by the Secretary,
23 but only upon assignment to the Secretary
24 of all rights and interest related
25 to such payments.

1 “(ii) DELIVERY OF EVIDENCE OF
2 ENTRY OF ORDER.—Notwithstanding any
3 other provision of this paragraph, no insur-
4 ance benefits may be paid pursuant to this
5 subparagraph for a mortgage before deliv-
6 ery to the Secretary of evidence of the
7 entry of the order issued pursuant to title
8 11, United States Code, in a form satisfac-
9 tory to the Secretary.”;

10 (2) in paragraph (5), in the matter preceding
11 subparagraph (A), by inserting after “section 520,
12 and” the following: “, except as provided in para-
13 graph (1)(E),”; and

14 (3) by adding at the end the following new
15 paragraph:

16 “(10) LOAN MODIFICATION PROGRAM.—

17 “(A) AUTHORITY.—The Secretary may
18 carry out a program solely to encourage loan
19 modifications for eligible delinquent mortgages
20 through the payment of insurance benefits and
21 assignment of the mortgage to the Secretary
22 and the subsequent modification of the terms of
23 the mortgage according to a loan modification
24 approved by the mortgagee.

1 “(B) PAYMENT OF BENEFITS AND ASSIGN-
2 MENT.—Under the program under this para-
3 graph, the Secretary may pay insurance bene-
4 fits for a mortgage, in the amount determined
5 in accordance with paragraph (5)(A), without
6 reduction for any amounts modified, but only
7 upon the assignment, transfer, and delivery to
8 the Secretary of all rights, interest, claims, evi-
9 dence, and records with respect to the mortgage
10 specified in clauses (i) through (iv) of para-
11 graph (1)(A).

12 “(C) DISPOSITION.—After modification of
13 a mortgage pursuant to this paragraph, the
14 Secretary may provide insurance under this
15 title for the mortgage. The Secretary may sub-
16 sequently—

17 “(i) re-assign the mortgage to the
18 mortgagee under terms and conditions as
19 are agreed to by the mortgagee and the
20 Secretary;

21 “(ii) act as a Government National
22 Mortgage Association issuer, or contract
23 with an entity for such purpose, in order
24 to pool the mortgage into a Government
25 National Mortgage Association security; or

1 “(iii) re-sell the mortgage in accord-
2 ance with any program that has been es-
3 tablished for purchase by the Federal Gov-
4 ernment of mortgages insured under this
5 title, and the Secretary may coordinate
6 standards for interest rate reductions
7 available for loan modification with inter-
8 est rates established for such purchase.

9 “(D) LOAN SERVICING.—In carrying out
10 the program under this section, the Secretary
11 may require the existing servicer of a mortgage
12 assigned to the Secretary under the program to
13 continue servicing the mortgage as an agent of
14 the Secretary during the period that the Sec-
15 retary acquires and holds the mortgage for the
16 purpose of modifying the terms of the mort-
17 gage. If the mortgage is resold pursuant to sub-
18 paragraph (C)(iii), the Secretary may provide
19 for the existing servicer to continue to service
20 the mortgage or may engage another entity to
21 service the mortgage.”.

22 (b) AMENDMENT TO PARTIAL CLAIM AUTHORITY.—
23 Paragraph (1) of section 230(b) of the National Housing
24 Act (12 U.S.C. 1715u(b)(1)) is amended by striking “12

1 of the monthly mortgage payments” and inserting “30
2 percent of the unpaid principal balance of the mortgage”.

3 (c) IMPLEMENTATION.—The Secretary of Housing
4 and Urban Development may implement the amendments
5 made by this section through notice or mortgagee letter.

6 **SEC. 123. ADJUSTMENTS AS RESULT OF MODIFICATION OF**
7 **RURAL SINGLE FAMILY HOUSING LOANS IN**
8 **BANKRUPTCY.**

9 (a) GUARANTEED RURAL HOUSING LOANS.—Sub-
10 section (h) of section 502 of the Housing Act of 1949 (42
11 U.S.C. 1472(h)) is amended—

12 (1) in paragraph (7)—

13 (A) in subparagraph (A), by inserting be-
14 fore the period at the end the following: “, un-
15 less the maturity date of the loan is modified in
16 a bankruptcy proceeding or at the discretion of
17 the Secretary”; and

18 (B) in subparagraph (B), by inserting be-
19 fore the semicolon the following: “, unless such
20 rate is modified in a bankruptcy proceeding”;

21 (2) by redesignating paragraphs (13) and (14)
22 as paragraphs (14) and (15), respectively; and

23 (3) by inserting after paragraph (12) the fol-
24 lowing new paragraph:

1 “(13) PAYMENT OF GUARANTEE.—In addition
2 to all other authorities to pay a guarantee claim, the
3 Secretary may also pay the guaranteed portion of
4 any losses incurred by the holder of a note or the
5 servicer resulting from a modification of a note by
6 a bankruptcy proceeding.”.

7 (b) INSURED RURAL HOUSING LOANS.—Subsection
8 (j) of section 517 of the Housing Act of 1949 (42 U.S.C.
9 1487(j)) is amended—

10 (1) by redesignating paragraphs (2) through
11 (7) as paragraphs (3) through (8), respectively; and

12 (2) by inserting after paragraph (1) the fol-
13 lowing new paragraph:

14 “(2) to pay for losses incurred by holders or
15 servicers in the event of a modification pursuant to
16 a bankruptcy proceeding;”.

17 (c) IMPLEMENTATION.—The Secretary of Agriculture
18 may implement the amendments made by this section
19 through notice, procedure notice, or administrative notice.

20 **SEC. 124. UNENFORCEABILITY OF CERTAIN PROVISION AS**
21 **BEING CONTRARY TO PUBLIC POLICY.**

22 No provision in any investment contract between a
23 servicer and a securitization vehicle or investor in effect
24 as of the date of enactment of this Act that requires excess
25 bankruptcy losses that exceed a certain dollar amount on

1 residential mortgages to be borne by classes of certificates
2 on a pro rata basis that refers to types of bankruptcy
3 losses that could not have been incurred under the law
4 in effect at the time such contract was entered into shall
5 be enforceable, as such provision shall be contrary to pub-
6 lic policy. Notwithstanding this section, such reference
7 to types of bankruptcy losses that could have been in-
8 curred under the law in effect at the time such contract
9 was entered into shall be enforceable.

10 **TITLE II—FORECLOSURE MITI-**
11 **GATION AND CREDIT AVAIL-**
12 **ABILITY**

13 **SEC. 201. SERVICER SAFE HARBOR FOR MORTGAGE LOAN**
14 **MODIFICATIONS.**

15 (a) SAFE HARBOR.—

16 (1) LOAN MODIFICATIONS AND WORKOUT
17 PLANS.—Notwithstanding any other provision of
18 law, and notwithstanding any investment contract
19 between a servicer and a securitization vehicle or in-
20 vestor, a servicer that acts consistent with the duty
21 set forth in section 129A(a) of Truth in Lending Act
22 (15 U.S.C. 1639a) shall not be liable for entering
23 into a loan modification, workout, or other loss miti-
24 gation plan, including, but not limited to, disposition

1 with respect to any such mortgage that meets all of
2 the criteria set forth in paragraph (2)(B) to—

3 (A) any person, based on that person's
4 ownership of a residential mortgage loan or any
5 interest in a pool of residential mortgage loans
6 or in securities that distribute payments out of
7 the principal, interest and other payments in
8 loans on the pool;

9 (B) any person who is obligated pursuant
10 to a derivatives instrument to make payments
11 determined in reference to any loan or any in-
12 terest referred to in subparagraph (A); or

13 (C) any person that insures any loan or
14 any interest referred to in subparagraph (A)
15 under any law or regulation of the United
16 States or any law or regulation of any State or
17 political subdivision of any State.

18 (2) ABILITY TO MODIFY MORTGAGES.—

19 (A) ABILITY.—Notwithstanding any other
20 provision of law, and notwithstanding any in-
21 vestment contract between a servicer and a
22 securitization vehicle or investor, a servicer—

23 (i) shall not be limited in the ability
24 to modify mortgages, the number of mort-
25 gages that can be modified, the frequency

1 of loan modifications, or the range of per-
2 missible modifications; and

3 (ii) shall not be obligated to repur-
4 chase loans from or otherwise make pay-
5 ments to the securitization vehicle on ac-
6 count of a modification, workout, or other
7 loss mitigation plan for a residential mort-
8 gage or a class of residential mortgages
9 that constitute a part or all of the mort-
10 gages in the securitization vehicle,

11 if any mortgage so modified meets all of the cri-
12 teria set forth in subparagraph (B).

13 (B) CRITERIA.—The criteria under this
14 subparagraph with respect to a mortgage are as
15 follows:

16 (i) Default on the payment of such
17 mortgage has occurred or is reasonably
18 foreseeable.

19 (ii) The property securing such mort-
20 gage is occupied by the mortgagor of such
21 mortgage.

22 (iii) The servicer reasonably and in
23 good faith believes that the anticipated re-
24 covery on the principal outstanding obliga-
25 tion of the mortgage under the particular

1 modification or workout plan or other loss
2 mitigation action will exceed, on a net
3 present value basis, the anticipated recov-
4 ery on the principal outstanding obligation
5 of the mortgage to be realized through
6 foreclosure.

7 (3) APPLICABILITY.—This subsection shall
8 apply only with respect to modifications, workouts,
9 and other loss mitigation plans initiated before Jan-
10 uary 1, 2012.

11 (b) REPORTING.—Each servicer that engages in loan
12 modifications or workout plans subject to the safe harbor
13 in subsection (a) shall report to the Secretary on a regular
14 basis regarding the extent, scope and results of the
15 servicer’s modification activities. The Secretary shall pre-
16 scribe regulations specifying the form, content, and timing
17 of such reports.

18 (c) DEFINITION OF SECURITIZATION VEHICLES.—
19 For purposes of this section, the term “securitization vehi-
20 cle” means a trust, corporation, partnership, limited liabil-
21 ity entity, special purpose entity, or other structure that—

22 (1) is the issuer, or is created by the issuer, of
23 mortgage pass-through certificates, participation cer-
24 tificates, mortgage-backed securities, or other similar

1 securities backed by a pool of assets that includes
 2 residential mortgage loans; and

3 (2) holds such mortgages.

4 **SEC. 202. CHANGES TO HOPE FOR HOMEOWNERS PRO-**
 5 **GRAM.**

6 (a) PROGRAM CHANGES.—Section 257 of the Na-
 7 tional Housing Act (12 U.S.C. 1715z–23) is amended—

8 (1) in subsection (c)—

9 (A) in the heading for paragraph (1), by
 10 striking “THE BOARD” and inserting “SEC-
 11 RETARY”;

12 (B) in paragraph (1), by striking “Board”
 13 inserting “Secretary, after consultation with the
 14 Board,”; and

15 (C) by adding after paragraph (2) the fol-
 16 lowing:

17 “(3) DUTIES OF BOARD.—The Board shall ad-
 18 vise the Secretary regarding the establishment and
 19 implementation of the HOPE for Homeowners Pro-
 20 gram.”.

21 (2) by striking “Board” each place such term
 22 appears in subsections (e), (h)(1), (h)(3), (j), (l),
 23 (n), (s)(3), and (v) and inserting “Secretary”;

24 (3) in subsection (e)—

1 (A) by striking paragraph (1) and insert-
2 ing the following:

3 “(1) BORROWER CERTIFICATION.—

4 “(A) NO INTENTIONAL DEFAULT OR
5 FALSE INFORMATION.—The mortgagor shall
6 provide a certification to the Secretary that the
7 mortgagor has not intentionally defaulted on
8 the existing mortgage or mortgages and has not
9 knowingly, or willfully and with actual knowl-
10 edge, furnished material information known to
11 be false for the purpose of obtaining the eligible
12 mortgage to be insured.

13 “(B) LIABILITY FOR REPAYMENT.—The
14 mortgagor shall agree in writing that the mort-
15 gagor shall be liable to repay to the Secretary
16 any direct financial benefit achieved from the
17 reduction of indebtedness on the existing mort-
18 gage or mortgages on the residence refinanced
19 under this section derived from misrepresenta-
20 tions made by the mortgagor in the certifi-
21 cations and documentation required under this
22 paragraph, subject to the discretion of the Sec-
23 retary.”;

1 (B) in paragraph (7), by striking the semi-
2 colon and all that follows through “new second
3 lien”;

4 (C) in paragraph (9)—

5 (i) by striking “by procuring (A) an
6 income tax return transcript of the income
7 tax return of the mortgagor, or (B)” and
8 inserting “in accordance with procedures
9 and standards that the Secretary shall es-
10 tablish, which may include requiring the
11 mortgagee to procure”; and

12 (ii) by striking “and by any other
13 method, in accordance with procedures and
14 standards that the Board shall establish”;
15 and

16 (D) by adding after paragraph (11) the
17 following new paragraph:

18 “(12) BAN ON MILLIONAIRES.—The mortgagor
19 shall not have a net worth, as of the date the mort-
20 gagor first applies for a mortgage to be insured
21 under the Program under this section, that exceeds
22 \$1,000,000.”;

23 (4) in subsection (h)(2)—

1 (A) by striking “The Board shall prohibit
2 the Secretary from paying” and inserting “The
3 Secretary shall not pay”; and

4 (B) by inserting after the period at the end
5 the following: “In implementing this provision
6 with respect to a failure by a mortgagor to
7 make a first payment, the Secretary shall estab-
8 lish policies and timing of endorsements as con-
9 sistent as is possible with endorsement policies
10 established with respect to mortgages insured
11 under section 203(b)”;

12 (5) in subsection (i)—

13 (A) by inserting “, after weighing maxi-
14 mization of participation with consideration of
15 collection of premiums,” after “Secretary
16 shall”;

17 (B) in paragraph (1), by striking “equal to
18 3 percent” and inserting “not more than 2 per-
19 cent”; and

20 (C) in paragraph (2), by striking “equal to
21 1.5 percent” and inserting “not more than 1
22 percent”;

23 (6) in subsection (k)—

24 (A) by striking the subsection heading and
25 inserting “EXIT FEE”;

1 (B) in paragraph (1), in the matter pre-
2 ceding subparagraph (A), by striking “such sale
3 or refinancing” and inserting “the mortgage
4 being insured under this section”; and

5 (C) in paragraph (2), by striking “and the
6 mortgagor” and all that follows through the
7 end and inserting “may, upon any sale or dis-
8 position of the property to which the mortgage
9 relates, be entitled to up to 50 percent of ap-
10preciation, up to the appraised value of the
11 home at the time when the mortgage being refi-
12nanced under this section was originally made.
13 The Secretary may share any amounts received
14 under this paragraph with the holder of the eli-
15gible mortgage refinanced under this section.”;

16 (7) in the heading for subsection (n), by strik-
17ing “THE BOARD” and inserting “SECRETARY”;

18 (8) in subsection (p), by striking “Under the di-
19rection of the Board, the” and inserting “The”;

20 (9) in subsection (s)—

21 (A) in the first sentence of paragraph (2),
22 by striking “Board of Directors of” and insert-
23ing “Advisory Board for”; and

1 (B) in paragraph (3)(A)(ii), by striking
2 “subsection (e)(1)(B) and such other” and in-
3 serting “such”;

4 (10) in subsection (v), by inserting after the pe-
5 riod at the end the following: “The Secretary shall
6 conform documents, forms, and procedures for mort-
7 gages insured under this section to those in place for
8 mortgages insured under section 203(b) to the max-
9 imum extent possible consistent with the require-
10 ments of this section.”; and

11 (11) by adding at the end the following new
12 subsections:

13 “(x) PAYMENT TO EXISTING LOAN SERVICER.—The
14 Secretary may establish a payment to the servicer of the
15 existing senior mortgage for every loan insured under the
16 HOPE for Homeowners Program in an amount, for each
17 such loan, that does not exceed \$1,000.

18 “(y) AUCTIONS.—The Secretary, with the concur-
19 rence of the Board, shall, if feasible, establish a structure
20 and organize procedures for an auction to refinance eligi-
21 ble mortgages on a wholesale or bulk basis.”.

22 (b) REDUCING TARP FUNDS TO OFFSET COSTS OF
23 PROGRAM CHANGES.—Paragraph (3) of section 115(a) of
24 the Emergency Economic Stabilization Act of 2008 (12
25 U.S.C. 5225) is amended by inserting “, as such amount

1 is reduced by \$2,316,000,000,” after
2 “\$700,000,000,000”.

3 **SEC. 203. REQUIREMENTS FOR FHA-APPROVED MORTGA-**
4 **GEEES.**

5 (a) MORTGAGEE REVIEW BOARD.—Paragraph (2) of
6 section 202(c) of the National Housing Act (12 U.S.C.
7 1708(c)) is amended—

8 (1) in subparagraph (E), by inserting “and”
9 after the semicolon;

10 (2) in subparagraph (F), by striking “; and”
11 and inserting a period; and

12 (3) by striking subparagraph (G).

13 (b) LIMITATIONS ON PARTICIPATION AND MORT-
14 GAGEE APPROVAL AND USE OF NAME.—Section 202 of
15 the National Housing Act (12 U.S.C. 1708) is amended—

16 (1) by redesignating subsections (d), (e), and
17 (f) as subsections (e), (f), and (g), respectively;

18 (2) by inserting after subsection (c) the fol-
19 lowing new subsection:

20 “(d) LIMITATIONS ON PARTICIPATION IN ORIGINA-
21 TION AND MORTGAGEE APPROVAL.—

22 “(1) REQUIREMENT.—Any person or entity
23 that is not approved by the Secretary to serve as a
24 mortgagee, as such term is defined in subsection
25 (c)(7), shall not participate in the origination of an

1 FHA-insured loan except as authorized by the Sec-
2 retary.

3 “(2) ELIGIBILITY FOR APPROVAL.—In order to
4 be eligible for approval by the Secretary, an appli-
5 cant mortgagee shall not be, and shall not have any
6 officer, partner, director, principal, or employee of
7 the applicant mortgagee who is—

8 “(A) currently suspended, debarred, under
9 a limited denial of participation (LDP), or oth-
10 erwise restricted under part 24 or 25 of title 24
11 of the Code of Federal Regulations, or any suc-
12 cessor regulations to such parts, or under simi-
13 lar provisions of any other Federal agency;

14 “(B) under indictment for, or has been
15 convicted of, an offense that reflects adversely
16 upon the applicant’s integrity, competence or
17 fitness to meet the responsibilities of an ap-
18 proved mortgagee;

19 “(C) subject to unresolved findings con-
20 tained in a Department of Housing and Urban
21 Development or other governmental audit, in-
22 vestigation, or review;

23 “(D) engaged in business practices that do
24 not conform to generally accepted practices of

1 prudent mortgagees or that demonstrate irre-
2 sponsibility;

3 “(E) convicted of, or who has pled guilty
4 or nolo contendere to, a felony related to partici-
5 pation in the real estate or mortgage loan in-
6 dustry—

7 “(i) during the 7-year period pre-
8 ceding the date of the application for li-
9 censing and registration; or

10 “(ii) at any time preceding such date
11 of application, if such felony involved an
12 act of fraud, dishonesty, or a breach of
13 trust, or money laundering;

14 “(F) in violation of provisions of the
15 S.A.F.E. Mortgage Licensing Act of 2008 (12
16 U.S.C. 5101 et seq.) or any applicable provision
17 of State law; or

18 “(G) in violation of any other requirement
19 as established by the Secretary.”; and

20 (3) by adding at the end the following new sub-
21 section:

22 “(h) USE OF NAME.—The Secretary shall, by regula-
23 tion, require each mortgagee approved by the Secretary
24 for participation in the FHA mortgage insurance pro-
25 grams of the Secretary—

1 “(1) to use the business name of the mortgagee
2 that is registered with the Secretary in connection
3 with such approval in all advertisements and pro-
4 motional materials, as such terms are defined by the
5 Secretary, relating to the business of such mort-
6 gagee in such mortgage insurance programs; and

7 “(2) to maintain copies of all such advertise-
8 ments and promotional materials, in such form and
9 for such period as the Secretary requires.”.

10 (c) CHANGE OF STATUS.—The National Housing Act
11 is amended by striking section 532 (12 U.S.C. 1735f–10)
12 and inserting the following new section:

13 **“SEC. 532. CHANGE OF MORTGAGEE STATUS.**

14 “(a) NOTIFICATION.—Upon the occurrence of any ac-
15 tion described in subsection (b), an approved mortgagee
16 shall immediately submit to the Secretary, in writing, noti-
17 fication of such occurrence.

18 “(b) ACTIONS.—The actions described in this sub-
19 section are as follows:

20 “(1) The debarment, suspension of a Limited
21 Denial of Participation (LDP), or application of
22 other sanctions, fines, or penalties applied to the
23 mortgagee or to any officer, partner, director, prin-
24 cipal, manager, supervisor, loan processor, loan un-

1 derwriter, or loan originator of the mortgagee pursu-
2 ant to applicable provisions of State or Federal law.

3 “(2) The revocation of a State-issued mortgage
4 loan originator license issued pursuant to the
5 S.A.F.E. Mortgage Licensing Act of 2008 (12
6 U.S.C. 5101 et seq.) or any other similar declaration
7 of ineligibility pursuant to State law.”.

8 (d) CIVIL MONEY PENALTIES.—Section 536 of the
9 National Housing Act (12 U.S.C. 1735f–14) is amend-
10 ed—

11 (1) in subsection (b)—

12 (A) in paragraph (1)—

13 (i) in the matter preceding subpara-
14 graph (A), by inserting “or any of its own-
15 ers, officers, or directors” after “mort-
16 gagee or lender”;

17 (ii) in subparagraph (H), by striking
18 “title I” and all that follows through “Act
19 of 1989)” and inserting “title I or II”; and

20 (iii) by inserting after subparagraph
21 (J) the following:

22 “(K) Violation of section 202(d) of this
23 Act (12 U.S.C. 1708(d)).”; and

24 (B) in paragraph (2)—

1 (i) in subparagraph (B), by striking
2 “or” at the end;

3 (ii) in subparagraph (C), by striking
4 the period at the end and inserting “; or”;
5 and

6 (iii) by adding at the end the fol-
7 lowing new subparagraph:

8 “(D) causing or participating in any of the
9 violations set forth in paragraph (1) of this sub-
10 section.”; and

11 (2) in subsection (g), by striking “The term”
12 and all that follows through the end of the sentence
13 and inserting “For purposes of this section, a person
14 acts knowingly when a person has actual knowledge
15 of acts or should have known of the acts.”.

16 (e) EXPANDED REVIEW OF FHA MORTGAGEE AP-
17 PPLICANTS AND NEWLY APPROVED MORTGAGEES.—Not
18 later than the expiration of the 3-month period beginning
19 upon the date of the enactment of this Act, the Secretary
20 of Housing and Urban Development shall—

21 (1) expand the existing process for reviewing
22 new applicants for approval for participation in the
23 mortgage insurance programs of the Secretary for
24 mortgages on 1- to 4-family residences for the pur-

1 pose of identifying applicants who represent a high
2 risk to the Mutual Mortgage Insurance Fund; and

3 (2) implement procedures that, for mortgagees
4 approved during the 12-month period ending upon
5 such date of enactment—

6 (A) expand the number of mortgages origi-
7 nated by such mortgagees that are reviewed for
8 compliance with applicable laws, regulations,
9 and policies; and

10 (B) include a process for random reviews
11 of such mortgagees and a process for reviews
12 that is based on volume of mortgages originated
13 by such mortgagees.

14 **SEC. 204. ENHANCEMENT OF LIQUIDITY AND STABILITY OF**
15 **INSURED DEPOSITORY INSTITUTIONS TO EN-**
16 **SURE AVAILABILITY OF CREDIT AND REDUC-**
17 **TION OF FORECLOSURES.**

18 (a) PERMANENT INCREASE IN DEPOSIT INSUR-
19 ANCE.—

20 (1) AMENDMENTS TO FEDERAL DEPOSIT IN-
21 SURANCE ACT.—Effective upon the date of the en-
22 actment of this Act, section 11(a) of the Federal De-
23 posit Insurance Act (12 U.S.C. 1821(a)) is amend-
24 ed—

1 (A) in paragraph (1)(E), by striking
2 “\$100,000” and inserting “\$250,000”;

3 (B) in paragraph (1)(F)(i), by striking
4 “2010” and inserting “2015”;

5 (C) in subclause (I) of paragraph
6 (1)(F)(i), by striking “\$100,000” and inserting
7 “\$250,000”;

8 (D) in subclause (II) of paragraph
9 (1)(F)(i), by striking “the calendar year pre-
10 ceding the date this subparagraph takes effect
11 under the Federal Deposit Insurance Reform
12 Act of 2005” and inserting “calendar year
13 2008”; and

14 (E) in paragraph (3)(A), by striking “, ex-
15 cept that \$250,000 shall be substituted for
16 \$100,000 wherever such term appears in such
17 paragraph”.

18 (2) AMENDMENT TO FEDERAL CREDIT UNION
19 ACT.—Section 207(k) of the Federal Credit Union
20 Act (12 U.S.C. 1787(k)) is amended—

21 (A) in paragraph (3)—

22 (i) by striking the opening quotation
23 mark before “\$250,000”;

24 (ii) by striking “, except that
25 \$250,000 shall be substituted for \$100,000

1 wherever such term appears in such sec-
2 tion”; and

3 (iii) by striking the closing quotation
4 mark after the closing parenthesis; and

5 (B) in paragraph (5), by striking
6 “\$100,000” and inserting “\$250,000”.

7 (3) REPEAL OF EESA PROVISION.—Section 136
8 of the Emergency Economic Stabilization Act (12
9 U.S.C. 5241) is hereby repealed.

10 (b) EXTENSION OF RESTORATION PLAN PERIOD.—
11 Section 7(b)(3)(E)(ii) of the Federal Deposit Insurance
12 Act (12 U.S.C. 1817(b)(3)(E)(ii)) is amended by striking
13 “5-year period” and inserting “8-year period”.

14 (c) FDIC AND NCUA BORROWING AUTHORITY.—

15 (1) FDIC.—Section 14(a) of the Federal De-
16 posit Insurance Act (12 U.S.C. 1824(a)) is amended
17 by striking “\$30,000,000,000” and inserting
18 “\$100,000,000,000”.

19 (2) NCUA.—Section 203(d)(1) of the Federal
20 Credit Union Act (12 U.S.C. 1783(d)(1)) is amend-
21 ed by striking “\$100,000,000” and inserting
22 “\$6,000,000,000”.

23 (d) EXPANDING SYSTEMIC RISK SPECIAL ASSESS-
24 MENTS.—Section 13(c)(4)(G)(ii) of the Federal Deposit

1 Insurance Act (12 U.S.C. 1823(c)(4)(G)(ii)) is amended
2 to read as follows:

3 “(ii) REPAYMENT OF LOSS.—

4 “(I) IN GENERAL.—The Corpora-
5 tion shall recover the loss to the De-
6 posit Insurance Fund arising from
7 any action taken or assistance pro-
8 vided with respect to an insured de-
9 pository institution under clause (i)
10 from 1 or more special assessments on
11 insured depository institutions, depository
12 institution holding companies
13 (with the concurrence of the Secretary
14 of the Treasury with respect to hold-
15 ing companies), or both, as the Cor-
16 poration determines to be appropriate.

17 “(II) TREATMENT OF DEPOSI-
18 TORY INSTITUTION HOLDING COMPA-
19 NIES.—For purposes of this clause,
20 sections 7(c)(2) and 18(h) shall apply
21 to depository institution holding com-
22 panies as if they were insured depository
23 institutions.

24 “(III) REGULATIONS.—The Cor-
25 poration shall prescribe such regula-

1 tions as it deems necessary to imple-
2 ment this clause. In prescribing such
3 regulations, defining terms, and set-
4 ting the appropriate assessment rate
5 or rates, the Corporation shall estab-
6 lish rates sufficient to cover the losses
7 incurred as a result of the actions of
8 the Corporation under clause (i) and
9 shall consider: the types of entities
10 that benefit from any action taken or
11 assistance provided under this sub-
12 paragraph; economic conditions, the
13 effects on the industry, and such
14 other factors as the Corporation
15 deems appropriate and relevant to the
16 action taken or the assistance pro-
17 vided. Any funds so collected that ex-
18 ceed actual losses shall be placed in
19 the Deposit Insurance Fund.”.

20 (e) ESTABLISHMENT OF A NATIONAL CREDIT UNION
21 SHARE INSURANCE FUND RESTORATION PLAN PE-
22 RIOD.—Section 202(c)(2) of the Federal Credit Union Act
23 (12 U.S.C. 1782(c)(2)) is amended by adding at the end
24 the following new subparagraph:

25 “(D) FUND RESTORATION PLANS.—

1 “(i) IN GENERAL.—Whenever—

2 “(I) the Board projects that the
3 equity ratio of the Fund will, within 6
4 months of such determination, fall
5 below the minimum amount specified
6 in subparagraph (C) for the des-
7 ignated equity ratio; or

8 “(II) the equity ratio of the Fund
9 actually falls below the minimum
10 amount specified in subparagraph (C)
11 for the equity ratio without any deter-
12 mination under sub-clause (I) having
13 been made,

14 the Board shall establish and implement a
15 Share Insurance Fund restoration plan
16 within 90 days that meets the require-
17 ments of clause (ii) and such other condi-
18 tions as the Board determines to be appro-
19 priate.

20 “(ii) REQUIREMENTS OF RESTORA-
21 TION PLAN.—A Share Insurance Fund res-
22 toration plan meets the requirements of
23 this clause if the plan provides that the eq-
24 uity ratio of the Fund will meet or exceed
25 the minimum amount specified in subpara-

1 graph (C) for the designated equity ratio
2 before the end of the 5-year period begin-
3 ning upon the implementation of the plan
4 (or such longer period as the Board may
5 determine to be necessary due to extraor-
6 dinary circumstances).

7 “(iii) TRANSPARENCY.—Not more
8 than 30 days after the Board establishes
9 and implements a restoration plan under
10 clause (i), the Board shall publish in the
11 Federal Register a detailed analysis of the
12 factors considered and the basis for the ac-
13 tions taken with regard to the plan.”.

○