

112TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT  
2d Session } { 112-

EQUITY IN GOVERNMENT COMPENSATION ACT OF 2011

JANUARY --, 2012.—Ordered to be printed

Mr. BACHUS, from the Committee on Financial Services,  
submitted the following

R E P O R T

together with

*No additional* VIEWS

[To accompany H.R. 1221]

[Including cost estimate of the Congressional Budget Office]

The Committee on Financial Services, to whom was referred the bill (H.R. 1221) to suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Equity in Government Compensation Act of 2011".

**SEC. 2. CONGRESSIONAL FINDINGS.**

The Congress finds that—

(1) the Federal National Mortgage Association (known as Fannie Mae) and the Federal Home Loan Mortgage Corporation (known as Freddie Mac), which are both privately owned but publicly chartered Government-sponsored enterprises (GSEs), were at the center of the mortgage market meltdown that caused the financial crisis that commenced in 2008;

(2) the failures of Fannie Mae and Freddie Mac helped precipitate the deepest economic decline since World War II;

(3) in September 2008, the Bush Administration, Federal Reserve Board, and Federal Housing Finance Agency (FHFA) exercised authority granted by the Congress to place the two GSEs in conservatorship, a form of nationalization that puts the regulators firmly in control of the GSEs' daily operations;

(4) in September 2008, the Bush Administration established a \$200 billion facility to purchase senior preferred stock in the enterprises to backstop their losses;

(5) in February 2009, the Obama Administration raised the senior preferred stock purchase commitment to \$400 billion;

(6) on Christmas Eve 2009, the Obama Administration removed any limits on the use of Federal funds to cover losses at the enterprises, significantly expanding a commitment that has resulted in the expenditure of so far nearly \$175 billion in taxpayer funds to purchase senior preferred stock in the two enterprises;

(7) as a result of the Government's actions, the taxpayers of the United States now own nearly 80 percent of the two GSEs;

(8) the Congressional Budget Office has concluded that Fannie Mae and Freddie Mac have effectively become Government entities whose operations should be included in the Federal budget;

(9) the GSEs are expected to be a long-term drain on the taxpayers as a result of market conditions and the political and public policy mandates imposed on them by the Administration and the Congress;

(10) in spite of these liabilities, the Treasury Department and FHFA approved compensation packages for the chief executive officers of Fannie Mae and Freddie Mac in 2009, 2010, and 2011 that were nearly 15 times greater than the annual compensation of the President of the United States and 30 times greater than the annual compensation of a Cabinet Secretary;

(11) the Treasury Department and the FHFA also approved multi-million dollar compensation packages for a number of the GSEs' top executives, payable in cash rather than in the type of stock options that have characterized compensation arrangements at other large financial institutions that have received extraordinary government assistance;

(12) on September 17, 2008, FHFA determined that no executive officer of Fannie Mae or Freddie Mac would be entitled to receive a cash bonus or long-term incentive awards for 2008;

(13) FHFA's five-year Strategic Plan for Fannie Mae and Freddie Mac includes a commitment that the GSEs will operate in a safe and sound manner; and

(14) section 1318(c) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4518(c), as added by section 1113(a)(4) of the Housing and Economic Recovery Act of 2008 (Public Law 110-289; 122 Stat. 2678)), permits the Director of FHFA to withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation.

### SEC. 3. DEFINITIONS.

In this Act:

(1) DIRECTOR.—The term "Director" means the Director of the Federal Housing Finance Agency.

(2) EMPLOYEE.—The term "employee" means an employee of an enterprise, except that such term does not include any employee who would be defined as a prevailing rate employee (as defined in section 5342(2) of title 5, United States Code) if such employee were employed by an agency (as defined in paragraph (1) of such section).

(3) ENTERPRISE.—The term "enterprise" means—

(A) the Federal National Mortgage Association and any affiliate thereof;

and

(B) the Federal Home Loan Mortgage Corporation and any affiliate thereof.

(4) EXECUTIVE OFFICER.—The term "executive officer" has the same meaning as is given such term in section 1303(12) of the Federal Housing Enterprises Financial Safety and Soundness Act of 1992 (12 U.S.C. 4502(12)).

### SEC. 4. REASONABLE PAY FOR EXECUTIVE OFFICERS.

(a) SUSPENSION OF CURRENT COMPENSATION PACKAGES.—The Director shall suspend the compensation packages approved for 2011 for the executive officers of an enterprise and, in lieu of such packages, subject to the limitation under subsection (d), establish a compensation system for the executive officers of such enterprise in accordance with the schedules of compensation and benefits established and ad-

justed pursuant to section 1206 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (12 U.S.C. 1833b).

(b) CLAWBACK OF 2010 AND 2011 COMPENSATION.—

(1) SENSE OF THE CONGRESS.—It is the sense of the Congress that each executive officer performing services for an enterprise on the date of the enactment of this Act whose compensation package is suspended under subsection (a) should return to the Secretary of the Treasury any compensation earned in 2010 and 2011 that was in excess of the maximum annual rate of basic pay authorized for a position in level I of the Executive Schedule.

(2) USE TO REDUCE NATIONAL DEBT.—The Secretary of the Treasury shall transfer any amounts referred to in paragraph (1) that are returned to the Secretary to the special account established by section 3113(d) of title 31, United States Code (relating to reducing the public debt).

(c) ADDITIONAL REQUIREMENT.—An executive officer of an enterprise shall be subject to section 111 of the Emergency Economic Stabilization Act of 2008 (12 U.S.C. 5221), which relates to executive compensation and corporate governance.

(d) LIMITATION ON COMPENSATION.—An executive officer of an enterprise whose compensation package is suspended under subsection (a) shall not be compensated more than the highest compensated employee of the Federal Housing Finance Agency.

**SEC. 5. COMPENSATION RATE OF EMPLOYEES OF FANNIE MAE AND FREDDIE MAC.**

(a) IN GENERAL.—During any period that an enterprise is federally chartered under the Federal National Mortgage Association Charter Act (12 U.S.C. 1716 et seq.) or the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1451 et seq.), the compensation of the positions held by employees shall be in accordance with this section.

(b) CONVERSION OF COMPENSATION RATE FOR CURRENT EMPLOYEES.—

(1) IN GENERAL.—Except for as provided in section 4, effective for pay periods beginning after the date of the enactment of this Act, the Director shall fix the rate of basic compensation of positions held by employees performing services for an enterprise as of the date of the enactment of this Act in accordance with the General Schedule set forth in section 5332 of title 5, United States Code. In fixing such rate—

(A) if the employee is receiving a rate of basic compensation that is less than the minimum rate of basic compensation of the appropriate grade of the General Schedule in which his or her position is placed, such employee's rate of basic compensation shall be increased to such minimum rate;

(B) if the employee is receiving a rate of basic compensation that is equal to a rate of basic compensation of the appropriate grade of the General Schedule in which his or her position is placed, such employee's rate of basic compensation shall be equal to that rate of basic compensation of the appropriate grade of the General Schedule;

(C) if the employee is receiving a rate of basic compensation that is between 2 rates of basic compensation of the appropriate grade of the General Schedule in which his or her position is placed, such employee's rate of basic compensation shall be at the higher of those 2 rates under the General Schedule; and

(D) if the employee is receiving a rate of basic compensation that is in excess of the maximum rate of basic compensation of the appropriate grade of the General Schedule in which his or her position is placed, such employee's rate of basic compensation shall be reduced to such maximum rate.

(2) NOT CONSIDERED TRANSFERS OR PROMOTIONS.—The conversion of positions and employees to the appropriate grades of the General Schedule and the initial adjustment of rates of basic compensation of those positions and employees provided for by this subsection, shall not be considered to be transfers or promotions within the meaning of section 5334(b) of title 5, United States Code, and the regulations issued thereunder.

(3) CREDIT FOR INCREASE IN COMPENSATION BEFORE ADJUSTMENT.—Each employee performing services for an enterprise on the date of the enactment of this Act whose position is converted under this subsection to the General Schedule and who prior to the initial adjustment of his or her rate of basic compensation under paragraph (1) has earned, but has not been credited with, an increase in that rate, shall be granted credit for such increase before his or her rate of basic compensation is initially adjusted under such paragraph.

(4) SERVICE PERFORMED SINCE LAST COMPENSATION INCREASE.—Each employee performing services for an enterprise on the date of the enactment of this Act whose position is converted under this subsection to the General Schedule shall be granted credit, for purposes of his or her first step increase under the General Schedule, for all satisfactory service performed since his or her last increase in compensation prior to the initial adjustment of his or her rate of basic compensation under paragraph (1).

(5) COMPENSATION INCREASE UNDER THIS SECTION.—An increase in the rate of basic compensation by reason of the enactment of paragraph (1) shall not be considered to be an equivalent increase with respect to step increases for employees whose positions are converted to the General Schedule under authority of this subsection.

(c) NEW EMPLOYEES.—Except for as provided in section 4, the grade and rate of basic pay of any individual beginning employment with an enterprise after the date of enactment of this Act shall be fixed in accordance with the General Schedule set forth in section 5332 of title 5, United States Code.

**SEC. 6. FANNIE AND FREDDIE EMPLOYEES NOT FEDERAL EMPLOYEES.**

Any executive officer or employee affected by any provision under sections 4 and 5, respectively, shall not be considered a Federal employee.

## PURPOSE AND SUMMARY

H.R. 1221, the Equity in Government Compensation Act of 2011, suspends the current compensation packages for all of Fannie Mae and Freddie Mac's senior executives and establishes a compensation system for the Government Sponsored Enterprises' (GSEs') executive officers consistent with the compensation and benefits provided under the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA). The bill requires the GSEs' regulator—the Federal Housing Finance Agency (FHFA)—to adjust the salaries of Fannie Mae's and Freddie Mac's nonsupervisory employees to conform to the General Schedule, a statutory pay system that pays employees based on surveys of non-federal pay for similar work. Finally, H.R. 1221 expresses the Sense of the Congress that the 2010 and 2011 pay packages for Fannie Mae's and Freddie Mac's senior executives were excessive and that the money should be returned to the Treasury to reduce the national debt.

## BACKGROUND AND NEED FOR LEGISLATION

Fannie Mae and Freddie Mac were established by Congress to make credit available to mortgage lenders to finance home purchases. Owned by private shareholders but imbued with a public mission to promote affordable homeownership, these GSEs bought mortgages from lenders and either held these mortgages in their portfolios or packaged them into mortgage-backed securities, for which the GSEs guaranteed the timely payment of principal and interest, that were sold to investors. The GSEs were able to fund their purchases of mortgages by borrowing at below-market rates because GSE bondholders assumed that the government would stand behind the GSEs if they ever failed.

Since entering a Federal conservatorship in September 2008, Fannie Mae and Freddie Mac have received nearly \$177 billion in government funds, making the GSE conservatorship by far the costliest of all the taxpayer bailouts carried out over the past three years. And there is no evidence that these government contributions will end any time soon. On November 3, 2011, Freddie Mac announced that it would need \$6 billion from taxpayers following its worst quarterly loss this year. On November 8, 2011, Fannie Mae reported that it would need another \$7.8 billion.

The genesis of H.R. 1221 can be found in the Treasury Department's decision on Christmas Eve of 2009 to grant top executives at Fannie Mae and Freddie Mac multi-million dollar bonuses. The FHFA ratified \$42 million worth of Wall Street-style pay packages for the GSEs' 12 top executives. The Treasury Department's Christmas Eve announcement was coupled with news that the Administration had decided to remove all limits on the amount of taxpayer assistance to the GSEs. In 2010, FHFA approved pay packages similar to the ones it approved in 2009. According to its SEC 10-K filings, Fannie Mae paid its top six executives \$15.4 million in salaries and bonuses, and its CEO, Michael Williams, received \$5.6 million. Freddie Mac paid its top five executives nearly \$18.5 million, and its CEO, Charles E. Haldeman, Jr., received \$5.4 million. And on November 1, 2011, it was announced that FHFA had approved \$12.79 million in bonus pay for 10 GSE executives. Executive pay for 2012 has not yet been determined.

Edward J. DeMarco, the FHFA's Acting Director, has defended these pay packages. Mr. DeMarco has asserted that for the GSEs to continue funding nearly three-fourths of all U.S. residential mortgages, they need to "attract and retain the talent needed to accomplish these objectives." Mr. DeMarco has described the GSEs' compensation plans as "competitive packages that benefit" from the standards imposed on firms that received government funds under the Troubled Asset Relief Program.

Meanwhile, the FHFA's Inspector General has published a report criticizing the FHFA's oversight of the GSEs' compensation practices.<sup>1</sup> In the report published on March 31, 2011, the Inspector General wrote that the FHFA has approved compensation packages with little scrutiny or analysis, adding that "FHFA lacks key controls necessary to monitor the Enterprises' ongoing executive compensation decisions under the approved packages." The Inspector General's report cited a "lack of standardized evaluation criteria, documentation of management procedures and internal controls" at FHFA, which may have resulted in overpayments. The inspector general noted that the "FHFA has a responsibility to Congress and taxpayers to efficiently, consistently, and reliably ensure that the compensation paid to Fannie Mae's and Freddie Mac's senior executives is reasonable."

## HEARINGS

On March 31, 2011, the Subcommittee on Capital Markets and Government Sponsored Enterprises held a hearing entitled "Legislative Hearing on Immediate Steps to Protect Taxpayers from the Ongoing Bailout of Fannie Mae and Freddie Mac," at which a draft version of what was later introduced as H.R. 1221 was discussed. The following witnesses testified:

- Mr. Edward J. DeMarco, Acting Director, Federal Housing Finance Agency
- The Honorable John H. Dalton, President, Housing Policy Council, The Financial Services Roundtable
- Mr. Christopher Papagianis, Managing Director, Economics21
- Mr. Edward Pinto, Resident Fellow, American Enterprise Institute
- Mr. Bob Nielsen, Chairman of the Board, National Association of Home Builders
- Mr. Ronald Phipps, President, National Association of Realtors

## COMMITTEE CONSIDERATION

The Subcommittee on Capital Markets and Government Sponsored Enterprises met in open session on April 5, 2011 and April 6, 2011, and ordered H.R. 1221, as amended, favorably reported to the full Committee by a record vote of 27 yeas and 6 nays. (Record vote no. CM-9).

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<sup>1</sup> FHFA Office of Inspector General, "Evaluation of Federal Housing Finance Agency's Oversight of Fannie Mae's and Freddie Mac's Executive Compensation Programs," March 31, 2011, available at <http://www.fhfaog.gov/Content/Files/Exec%20Comp%20DrRpt%2003302011%20final.%20signed.pdf>

The Committee on Financial Services met in open session on November 15, 2011, and ordered H.R. 1221, as amended, favorably reported to the House by a record vote of 52 yeas and 4 nays. (Record vote no. FC-52).

### COMMITTEE VOTES

Clause 3(b) of rule XIII of the Rules of the House of Representatives requires the Committee to list the record votes on the motion to report legislation and amendments thereto. A motion by Chairman Bachus to report the bill, as amended, to the House with a favorable recommendation was agreed to by a record vote of 52 yeas and 4 nays (Record vote no. FC-52). The names of Members voting for and against follow:

#### Record vote no. FC-52

Representative	Aye	Nay	Present	Representative	Aye	Nay	Present
Mr. Bachus	X			Mr. Frank (MA)	X		
Mr. Hensarling	X			Ms. Waters	X		
Mr. King (NY)	X			Mrs. Maloney	X		
Mr. Royce	X			Mr. Gutierrez		X	
Mr. Lucas	X			Ms. Velázquez	X		
Mr. Paul				Mr. Watt		X	
Mr. Manzullo	X			Mr. Ackerman	X		
Mr. Jones	X			Mr. Sherman	X		
Mrs. Biggert	X			Mr. Meeks	X		
Mr. Gary G. Miller (CA)	X			Mr. Capuano	X		
Mrs. Capito	X			Mr. Hinojosa	X		
Mr. Garrett	X			Mr. Clay	X		
Mr. Neugebauer	X			Mrs. McCarthy (NY)			
Mr. McHenry	X			Mr. Baca	X		
Mr. Campbell		X		Mr. Lynch		X	
Mrs. Bachmann				Mr. Miller (NC)	X		
Mr. McCotter	X			Mr. David Scott (GA)	X		
Mr. McCarthy (CA)				Mr. Al Green (TX)	X		
Mr. Pearce	X			Mr. Cleaver			
Mr. Posey	X			Ms. Moore	X		
Mr. Fitzpatrick	X			Mr. Ellison	X		
Mr. Westmoreland	X			Mr. Perlmutter	X		
Mr. Luetkemeyer	X			Mr. Donnelly	X		
Mr. Huizenga	X			Mr. Carson	X		
Mr. Duffy	X			Mr. Himes	X		
Ms. Hayworth	X			Mr. Peters	X		
Mr. Renacci	X			Mr. Carney	X		
Mr. Hurt	X						
Mr. Dold	X						
Mr. Schweikert	X						
Mr. Grimm	X						
Mr. Canseco	X						
Mr. Stivers	X						
Mr. Fincher	X						

During consideration of H.R. 1221, the following amendments, motion and request were considered:

1. An amendment offered by Mr. Bachus, no. 1, to make technical changes to include 2011 compensation packages, was agreed to by voice vote.

2. An amendment offered by Mr. Frank, no. 2, to insert references to the Bush Administration, was agreed to by voice vote.

3. An amendment offered by Messrs. Green and Bachus, no. 3, as amended by an amendment offered by Mr. Frank, no. 3a, to provide that the compensation system for Fannie Mae and Freddie Mac executives be the same as the schedules of compensation and benefits established in the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 and to cap GSE executive pay to that of the highest paid manager at the Federal Housing Finance Agency, was agreed to by voice vote.

4. A Unanimous Consent request by Mr. Frank to orally offer a second degree amendment to the amendment offered by Messrs. Green and Bachus, no. 3, was granted.

5. An amendment offered by Mr. Frank, no. 3a, to an amendment offered by Messrs. Green and Bachus, no. 3, to strike section 4(d) of the bill, which requires that profitability be taken into account when determining executive compensation, was agreed to by voice vote.

6. A motion offered by Mr. Bachus to move the previous question on H.R. 1221 was agreed to by voice vote.

### **COMMITTEE OVERSIGHT FINDINGS**

Pursuant to clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee has held hearings and made findings that are reflected in this report.

### **PERFORMANCE GOALS AND OBJECTIVES**

Pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, the Committee establishes the following performance related goals and objectives for this legislation:

The objectives of H.R. 1221 are to suspend the current compensation packages for all of Fannie Mae and Freddie Mac's senior executives and to establish a compensation system for the Government Sponsored Enterprises' (GSEs') executive officers consistent with the compensation and benefits provided under the Financial Institution Reform, Recovery, and Enforcement Act of 1989 (FIRREA). It is also the objective of H.R. 1221 to require the GSEs' regulator—the Federal Housing Finance Agency (FHFA)—to adjust the salaries of Fannie Mae's and Freddie Mac's nonsupervisory employees to conform to the General Schedule, a statutory pay system that pays employees based on surveys of non-federal pay for similar work.



## **NEW BUDGET AUTHORITY, ENTITLEMENT AUTHORITY, AND TAX EXPENDITURES**

In compliance with clause 3(c)(2) of rule XIII of the Rules of the House of Representatives, the Committee adopts as its own the estimate of new budget authority, entitlement authority, or tax expenditures or revenues contained in the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

### **COMMITTEE COST ESTIMATE**

The Committee adopts as its own the cost estimate prepared by the Director of the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974.

### **CONGRESSIONAL BUDGET OFFICE ESTIMATE**

Pursuant to clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the following is the cost estimate provided by the Congressional Budget Office pursuant to section 402 of the Congressional Budget Act of 1974:

[Please see attached CBO Estimate]

January 4, 2012

Honorable Spencer Bachus  
Chairman  
Committee on Financial Services  
U.S. House of Representatives  
Washington, DC 20515

Dear Mr. Chairman:

The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 1221, the Equity in Government Compensation Act of 2011.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Aurora Swanson, who can be reached at 226-2860.

Sincerely,

Douglas W. Elmendorf

Enclosure

cc: Honorable Barney Frank  
Ranking Member



## CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

January 4, 2012

### **H.R. 1221**

### **Equity in Government Compensation Act of 2011**

*As ordered reported by the House Committee on Financial Services  
on November 15, 2011*

H.R. 1221 would direct the Federal Housing Finance Agency (FHFA) to adjust the compensation of employees at the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) to levels comparable to executive branch employees. CBO estimates that enacting the legislation would have no significant impact on the federal budget because the bill would not directly change the income of the organizations nor would it restrict how those firms could spend amounts realized by reducing certain salaries. The legislation would affect direct spending; therefore, pay-as-you-go-procedures apply. CBO estimates, however, that any changes in direct spending would be insignificant. Enacting the bill would not affect revenues.

The bill would direct FHFA to reduce compensation levels for executive officers at Fannie Mae and Freddie Mac to align with compensation levels at financial regulatory agencies in the executive branch. Compensation levels at those firms would be capped at the maximum attainable salary at FHFA—currently around \$255,000. The bill would require that other employees at Fannie Mae and Freddie Mac be compensated in accordance with the federal government's General Schedule pay rates—the predominant pay schedule for executive branch agencies.

In the past several years, total compensation—including salaries and benefits—for employees of Fannie Mae and Freddie Mac combined has averaged around \$2 billion. Assuming enactment in early 2012, CBO estimates that H.R. 1221 would reduce salaries for current employees by around \$300 million annually, based on information from FHFA, FHFA's Office of Inspector General, Fannie Mae's and Freddie Mac's quarterly financial reports, and salary schedules for federal employees.

Implementing H.R. 1221 would result in less spending for compensation of current employees of Fannie Mae and Freddie Mac. However, the legislation would not require any amounts saved by lowering compensation to be returned to the U.S. Treasury or to be used to offset the cost of mortgage guarantees made by those firms. Under the bill, any such funds could be used to cover new administrative costs, such as hiring additional employees, contracting for necessary services, or changing the retirement plans for existing employees.

H.R. 1221 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on state, local, or tribal governments.

The CBO staff contact for this estimate is Aurora Swanson. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

## FEDERAL MANDATES STATEMENT

The Committee adopts as its own the estimate of Federal mandates prepared by the Director of the Congressional Budget Office pursuant to section 423 of the Unfunded Mandates reform Act.

## ADVISORY COMMITTEE STATEMENT

No advisory committees within the meaning of section 5(b) of the Federal Advisory Committee Act were created by this legislation.

## APPLICABILITY TO LEGISLATIVE BRANCH

The Committee finds that the legislation does not relate to the terms and conditions of employment or access to public services or accommodations within the meaning of the section 102(b)(3) of the Congressional Accountability Act.

## EARMARK IDENTIFICATION

H.R. 1221 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9 of rule XXI.

## SECTION-BY-SECTION ANALYSIS OF THE LEGISLATION

### **Section 1: Short Title**

This section provides the short title of "Equity in Government Compensation Act of 2011."

### **Section 2: Congressional Findings**

The Congress finds that Fannie Mae and Freddie Mac -- two privately-owned but publicly-chartered Government Sponsored Enterprises (GSEs) -- were at the center of the mortgage market meltdown that caused the financial crisis and that their failures helped precipitate the deepest economic decline since World War II. The Bush Administration put the GSEs in conservatorship in September 2008, placing the Federal Housing Finance Agency (FHFA) in control of the GSEs' daily operations. Since then, the Obama Administration removed any limits on the use of Federal funds to cover losses at the GSEs. The taxpayers have so far spent nearly \$175 billion to purchase GSE preferred stock and own nearly 80 percent of Fannie Mae and Freddie Mac. The Congressional Budget Office has concluded that Fannie Mae and Freddie Mac have effectively become government agencies whose

liabilities should be included in the Federal budget; the GSEs are expected to be a long-term drain on taxpayers. Yet, in spite of their liabilities, the Treasury Department and the FHFA approved compensation packages for Fannie Mae's and Freddie Mac's chief executive officers in 2009, 2010 and 2011 that were nearly 15 times greater than the compensation of the President of the United States and 30 times greater than the annual compensation of a Cabinet Secretary; it also approved multi-million dollar compensation packages for a number of the GSEs' top executives, payable in cash, even though in 2008, the FHFA determined that no executive officer of Fannie Mae or Freddie Mac would be entitled to receive a cash bonus or long-term incentive award in 2008. Congress also finds that the Federal Housing Enterprises Financial Safety and Soundness Act permits the FHFA Director to "withhold any payment, transfer, or disbursement of compensation to an executive officer, or to place such compensation in an escrow account, during the review of the reasonableness and comparability of compensation."

### **Section 3: Definitions**

This section defines the following terms:

- (1) "Director" means the Director of the FHFA.
- (2) "Employee" means an employee of an Enterprise, except the term does not include an employee defined as a prevailing rate employee.
- (3) "Enterprise" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and their affiliates.
- (4) "Executive Officer" means, with respect to an enterprise, the chairman of the board of directors, chief executive officer, chief financial officer, president, vice chairman, any executive vice president, and any senior vice president in charge of a principal business unit, division, or function.

### **Section 4: Reasonable Pay for Executive Officers**

This section directs the FHFA Director to suspend the compensation packages approved for 2011 for the executive officers of Fannie Mae and Freddie Mac and to establish a compensation system for the executive officers in accordance with the compensation and benefits schedules established pursuant to the Financial Institution Reform, Recovery, and Enforcement Act of 1989. No GSE executive compensation package shall exceed that of the highest paid employee of the FHFA.

The section also expresses the Sense of the Congress that the 2010 and 2011 pay packages for Fannie Mae's and Freddie Mac's senior executives were excessive and that the money should be returned to the Treasury to reduce the national debt.

### **Section 5: Compensation Rate of Employees of Fannie Mae and Freddie Mac**

This section establishes a compensation system for the executive officers of Fannie Mae and Freddie Mac that is consistent with that of the Executive Schedule and the Senior Executive Service of the Federal Government and for all other employees that is in accordance with the General Schedule.

## **Section 6: Fannie and Freddie Employees Not Federal Employees**

This section clarifies that no executive officer or employee of Fannie Mae or Freddie Mac shall be considered a Federal employee.

112TH CONGRESS  
2D SESSION

# H. R. 1221

[Report No. 112-]

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

MARCH 29, 2011

Mr. BACHUS (for himself, Mr. GARRETT, Mr. HENSARLING, Mr. PEARCE, and Mrs. BIGGERT) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Oversight and Government Reform, 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

JANUARY --, 2012

Reported from the Committee on Financial Services with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on March 29, 2011]



## **A BILL**

To suspend the current compensation packages for the senior executives of Fannie Mae and Freddie Mac and establish compensation for such positions in accordance with rates of pay for senior employees in the Executive Branch of the Federal Government, and for other purposes.

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.**

4        *This Act may be cited as the “Equity in Government*  
5 *Compensation Act of 2011”.*

6 **SEC. 2. CONGRESSIONAL FINDINGS.**

7        *The Congress finds that—*

8            (1) *the Federal National Mortgage Association*  
9 *(known as Fannie Mae) and the Federal Home Loan*  
10 *Mortgage Corporation (known as Freddie Mac), which*  
11 *are both privately owned but publicly chartered Gov-*  
12 *ernment-sponsored enterprises (GSEs), were at the*  
13 *center of the mortgage market meltdown that caused*  
14 *the financial crisis that commenced in 2008;*

15            (2) *the failures of Fannie Mae and Freddie Mac*  
16 *helped precipitate the deepest economic decline since*  
17 *World War II;*

18            (3) *in September 2008, the Bush Administration,*  
19 *Federal Reserve Board, and Federal Housing Finance*  
20 *Agency (FHFA) exercised authority granted by the*  
21 *Congress to place the two GSEs in conservatorship, a*  
22 *form of nationalization that puts the regulators firm-*  
23 *ly in control of the GSEs’ daily operations;*

24            (4) *in September 2008, the Bush Administration*  
25 *established a \$200 billion facility to purchase senior*

1       *preferred stock in the enterprises to backstop their*  
2       *losses;*

3             (5) *in February 2009, the Obama Administra-*  
4       *tion raised the senior preferred stock purchase com-*  
5       *mitment to \$400 billion;*

6             (6) *on Christmas Eve 2009, the Obama Adminis-*  
7       *tration removed any limits on the use of Federal*  
8       *funds to cover losses at the enterprises, significantly*  
9       *expanding a commitment that has resulted in the ex-*  
10       *penditure of so far nearly \$175 billion in taxpayer*  
11       *funds to purchase senior preferred stock in the two en-*  
12       *terprises;*

13            (7) *as a result of the Government's actions, the*  
14       *taxpayers of the United States now own nearly 80*  
15       *percent of the two GSEs;*

16            (8) *the Congressional Budget Office has con-*  
17       *cluded that Fannie Mae and Freddie Mac have effec-*  
18       *tively become Government entities whose operations*  
19       *should be included in the Federal budget;*

20            (9) *the GSEs are expected to be a long-term*  
21       *drain on the taxpayers as a result of market condi-*  
22       *tions and the political and public policy mandates*  
23       *imposed on them by the Administration and the Con-*  
24       *gress;*

1           (10) in spite of these liabilities, the Treasury De-  
2           partment and FHFA approved compensation pack-  
3           ages for the chief executive officers of Fannie Mae and  
4           Freddie Mac in 2009, 2010, and 2011 that were near-  
5           ly 15 times greater than the annual compensation of  
6           the President of the United States and 30 times great-  
7           er than the annual compensation of a Cabinet Sec-  
8           retary;

9           (11) the Treasury Department and the FHFA  
10          also approved multi-million dollar compensation  
11          packages for a number of the GSEs' top executives,  
12          payable in cash rather than in the type of stock op-  
13          tions that have characterized compensation arrange-  
14          ments at other large financial institutions that have  
15          received extraordinary government assistance;

16          (12) on September 17, 2008, FHFA determined  
17          that no executive officer of Fannie Mae or Freddie  
18          Mac would be entitled to receive a cash bonus or long-  
19          term incentive awards for 2008;

20          (13) FHFA's five-year Strategic Plan for Fannie  
21          Mae and Freddie Mac includes a commitment that  
22          the GSEs will operate in a safe and sound manner;  
23          and

24          (14) section 1318(c) of the Federal Housing En-  
25          terprises Financial Safety and Soundness Act of 1992

1       (12 U.S.C. 4518(c), as added by section 1113(a)(4) of  
2       the Housing and Economic Recovery Act of 2008  
3       (Public Law 110-289; 122 Stat. 2678)), permits the  
4       Director of FHFA to withhold any payment, transfer,  
5       or disbursement of compensation to an executive offi-  
6       cer, or to place such compensation in an escrow ac-  
7       count, during the review of the reasonableness and  
8       comparability of compensation.

9       **SEC. 3. DEFINITIONS.**

10       *In this Act:*

11               (1) *DIRECTOR.*—The term “Director” means the  
12       Director of the Federal Housing Finance Agency.

13               (2) *EMPLOYEE.*—The term “employee” means an  
14       employee of an enterprise, except that such term does  
15       not include any employee who would be defined as a  
16       prevailing rate employee (as defined in section  
17       5342(2) of title 5, United States Code) if such em-  
18       ployee were employed by an agency (as defined in  
19       paragraph (1) of such section).

20               (3) *ENTERPRISE.*—The term “enterprise”  
21       means—

22                       (A) the Federal National Mortgage Associa-  
23       tion and any affiliate thereof; and

24                       (B) the Federal Home Loan Mortgage Cor-  
25       poration and any affiliate thereof.

1           (4) *EXECUTIVE OFFICER.*—The term “executive  
2           officer” has the same meaning as is given such term  
3           in section 1303(12) of the Federal Housing Enter-  
4           prises Financial Safety and Soundness Act of 1992  
5           (12 U.S.C. 4502(12)).

6 **SEC. 4. REASONABLE PAY FOR EXECUTIVE OFFICERS.**

7           (a) *SUSPENSION OF CURRENT COMPENSATION PACK-*  
8 *AGES.*—The Director shall suspend the compensation pack-  
9 *ages approved for 2011 for the executive officers of an enter-*  
10 *prise and, in lieu of such packages, subject to the limitation*  
11 *under subsection (d), establish a compensation system for*  
12 *the executive officers of such enterprise in accordance with*  
13 *the schedules of compensation and benefits established and*  
14 *adjusted pursuant to section 1206 of the Financial Institu-*  
15 *tions Reform, Recovery, and Enforcement Act of 1989 (12*  
16 *U.S.C. 1833b).*

17           (b) *CLAWBACK OF 2010 AND 2011 COMPENSATION.*—

18           (1) *SENSE OF THE CONGRESS.*—It is the sense of  
19 *the Congress that each executive officer performing*  
20 *services for an enterprise on the date of the enactment*  
21 *of this Act whose compensation package is suspended*  
22 *under subsection (a) should return to the Secretary of*  
23 *the Treasury any compensation earned in 2010 and*  
24 *2011 that was in excess of the maximum annual rate*

1       of basic pay authorized for a position in level I of the  
2       Executive Schedule.

3           (2) *USE TO REDUCE NATIONAL DEBT.*—The Sec-  
4       retary of the Treasury shall transfer any amounts re-  
5       ferred to in paragraph (1) that are returned to the  
6       Secretary to the special account established by section  
7       3113(d) of title 31, United States Code (relating to re-  
8       ducing the public debt).

9           (c) *ADDITIONAL REQUIREMENT.*—An executive officer  
10      of an enterprise shall be subject to section 111 of the Emer-  
11      gency Economic Stabilization Act of 2008 (12 U.S.C. 5221),  
12      which relates to executive compensation and corporate gov-  
13      ernance.

14          (d) *LIMITATION ON COMPENSATION.*—An executive of-  
15      ficer of an enterprise whose compensation package is sus-  
16      pended under subsection (a) shall not be compensated more  
17      than the highest compensated employee of the Federal Hous-  
18      ing Finance Agency.

19      **SEC. 5. COMPENSATION RATE OF EMPLOYEES OF FANNIE**  
20                              **MAE AND FREDDIE MAC.**

21          (a) *IN GENERAL.*—During any period that an enter-  
22      prise is federally chartered under the Federal National  
23      Mortgage Association Charter Act (12 U.S.C. 1716 et seq.)  
24      or the Federal Home Loan Mortgage Corporation Act (12

1 *U.S.C. 1451 et seq.*), the compensation of the positions held  
2 *by employees shall be in accordance with this section.*

3 (b) *CONVERSION OF COMPENSATION RATE FOR CUR-*  
4 *RENT EMPLOYEES.—*

5 (1) *IN GENERAL.—Except for as provided in sec-*  
6 *tion 4, effective for pay periods beginning after the*  
7 *date of the enactment of this Act, the Director shall*  
8 *fix the rate of basic compensation of positions held by*  
9 *employees performing services for an enterprise as of*  
10 *the date of the enactment of this Act in accordance*  
11 *with the General Schedule set forth in section 5332 of*  
12 *title 5, United States Code. In fixing such rate—*

13 (A) *if the employee is receiving a rate of*  
14 *basic compensation that is less than the min-*  
15 *imum rate of basic compensation of the appro-*  
16 *priate grade of the General Schedule in which*  
17 *his or her position is placed, such employee's*  
18 *rate of basic compensation shall be increased to*  
19 *such minimum rate;*

20 (B) *if the employee is receiving a rate of*  
21 *basic compensation that is equal to a rate of*  
22 *basic compensation of the appropriate grade of*  
23 *the General Schedule in which his or her posi-*  
24 *tion is placed, such employee's rate of basic com-*  
25 *ensation shall be equal to that rate of basic*



1           *compensation of the appropriate grade of the*  
2           *General Schedule;*

3           (C) *if the employee is receiving a rate of*  
4           *basic compensation that is between 2 rates of*  
5           *basic compensation of the appropriate grade of*  
6           *the General Schedule in which his or her posi-*  
7           *tion is placed, such employee's rate of basic com-*  
8           *penetration shall be at the higher of those 2 rates*  
9           *under the General Schedule; and*

10           (D) *if the employee is receiving a rate of*  
11           *basic compensation that is in excess of the max-*  
12           *imum rate of basic compensation of the appro-*  
13           *priate grade of the General Schedule in which*  
14           *his or her position is placed, such employee's*  
15           *rate of basic compensation shall be reduced to*  
16           *such maximum rate.*

17           (2) *NOT CONSIDERED TRANSFERS OR PRO-*  
18           *MOTIONS.—The conversion of positions and employees*  
19           *to the appropriate grades of the General Schedule and*  
20           *the initial adjustment of rates of basic compensation*  
21           *of those positions and employees provided for by this*  
22           *subsection, shall not be considered to be transfers or*  
23           *promotions within the meaning of section 5334(b) of*  
24           *title 5, United States Code, and the regulations issued*  
25           *thereunder.*

1           (3) *CREDIT FOR INCREASE IN COMPENSATION*  
2           *BEFORE ADJUSTMENT.*—Each employee performing  
3           services for an enterprise on the date of the enactment  
4           of this Act whose position is converted under this sub-  
5           section to the General Schedule and who prior to the  
6           initial adjustment of his or her rate of basic com-  
7           pensation under paragraph (1) has earned, but has  
8           not been credited with, an increase in that rate, shall  
9           be granted credit for such increase before his or her  
10          rate of basic compensation is initially adjusted under  
11          such paragraph.

12          (4) *SERVICE PERFORMED SINCE LAST COM-*  
13          *PENSATION INCREASE.*—Each employee performing  
14          services for an enterprise on the date of the enactment  
15          of this Act whose position is converted under this sub-  
16          section to the General Schedule shall be granted cred-  
17          it, for purposes of his or her first step increase under  
18          the General Schedule, for all satisfactory service per-  
19          formed since his or her last increase in compensation  
20          prior to the initial adjustment of his or her rate of  
21          basic compensation under paragraph (1).

22          (5) *COMPENSATION INCREASE UNDER THIS SEC-*  
23          *TION.*—An increase in the rate of basic compensation  
24          by reason of the enactment of paragraph (1) shall not  
25          be considered to be an equivalent increase with respect

1       to step increases for employees whose positions are  
2       converted to the General Schedule under authority of  
3       this subsection.

4       (c) *NEW EMPLOYEES.*—Except for as provided in sec-  
5       tion 4, the grade and rate of basic pay of any individual  
6       beginning employment with an enterprise after the date of  
7       enactment of this Act shall be fixed in accordance with the  
8       General Schedule set forth in section 5332 of title 5, United  
9       States Code.

10   **SEC. 6. FANNIE AND FREDDIE EMPLOYEES NOT FEDERAL**  
11                            **EMPLOYEES.**

12       Any executive officer or employee affected by any pro-  
13       vision under sections 4 and 5, respectively, shall not be con-  
14       sidered a Federal employee.