# **FHA Solvency Act of 2013**

# Section-by-Section

#### Section 1 - Short Title and Table of Contents

#### **Section 2 - Mortgage Insurance Premiums**

This section amends section 203(c)(2) of the National Housing Act. This section would require the Secretary to charge a minimum annual mortgage insurance premium of at least 55 basis points. It also increases the up-front and annual premium caps by 50 basis points. This section would require the Secretary to evaluate premium levels at least annually to ensure that the combined up-front and annual premiums for the life of a loan will cover the expected risk to the fund and maintain the mandated capital reserve ratio.

#### Section 3 - Indemnification

This section gives the Secretary the authority to seek indemnification from mortgagees approved to originate loans under the lender insurance program or the direct endorsement program. Currently, the Secretary only has the authority to seek indemnification from mortgagees under the lender insurance program. To qualify for indemnification, the mortgage must have a material defect that would have prevented the loan from being insured or have involved fraud or misrepresentation. Except in cases of fraud or misrepresentation, the loan must have been delinquent within 36 months and resulted in a default. The Secretary is required to issue regulations governing requirements for mortgagees, public reporting of loans subject to indemnification, and an appeals process.

# Section 4 - Review of Mortgagee Performance

This section amends Section 533 of the National Housing Act to expand the criteria the Secretary uses to compare mortgagee performance. This section also provides the Secretary with the authority to terminate a mortgagee's approval on a national basis. Currently, a mortgagee's approval can only be terminated in a specific geographical area. The Secretary would also issue regulations to establish an appeals process for a termination decision.

## Section 5 - Easing Regulatory Burdens; Resource Guide

This section directs the Secretary to establish a single resource guide for lenders and servicers regarding the requirements, policies, processes, and procedures that apply to loans insured by FHA. This section also requires that the guide be made publicly available and posted on HUD's website.

# **Section 6 - Improving Underwriting Standards**

This section directs the Secretary to evaluate and revise as necessary FHA's underwriting standards using criteria similar to the CFPB's criteria for Qualified Mortgages. Such criteria includes a borrower's income and financial resources, monthly mortgage payment, other debts, employment status if employment income is included in financial resources, debt-to-income ratio, and credit history.

**Section 7 – Ensuring Adequate Capital Levels in the Mutual Mortgage Insurance (MMI) Fund** This section amends section 205 of the National Housing Act to require that the MMI Fund achieve a capital reserve ratio of 3 percent within 10 years of enactment. It establishes escalating reporting requirements and program evaluations that take effect immediately if the capital ratio falls below required levels depending on how undercapitalized the fund is in comparison to the mandated capital

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reserve ratio. The fund shall be designated as <u>undercapitalized</u> in the event that the capital reserve ratio is less than 100 percent but not less than 50 percent of the ratio required by statute. The fund shall be designated as <u>significantly undercapitalized</u> in the event that the capital reserve ratio is less than 50 percent of the required ratio but not less than zero of the ratio required by statute. And finally, the fund shall be designated as <u>critically undercapitalized</u> in the event that the capital reserve ratio is negative. With each designation this section mandates escalating transparency requirements regarding the state of the fund and additional assessments of risk characteristics and surcharges as applicable. The process for imposing premium surcharges would apply if:

- 1) the MMI Fund is critically undercapitalized 2 years after enactment of the FHA Solvency Act and thereafter, as indicated in the actuarial report;
- 2) after submission of the FY2016 actuarial report, the MMI Fund has not achieved a 2 percent capital reserve ratio;
- 3) after the submission of the FY2016 actuarial report but prior to the earlier of 10 years after the date of enactment or the date the Fund achieves 3 percent, there is a decrease in the value of the ratio from one report to the next, as determined by the independent actuary, without a concurrent drop in market share;
- 4) the capital reserve ratio fails to achieve and maintain 3 percent by the date that is 10 years after enactment and thereafter, as indicated in the actuarial report.

# Section 8 - Establishment of Deputy Assistant Secretary and Chief Risk Officer of FHA

This section creates a Chief Risk Officer within the FHA and establishes the criteria for the position as well as requiring the Officer to conduct an annual study of the lowest performing loans.

#### Section 9 - Disclosure of Events

This section requires the disclosure of any event that occurs between finalizing the Annual Actuarial Report and submission of the Annual Report to Congress that might affect the report's findings. This disclosure shall be released as an addendum to the Report to Congress with an accompanying letter serving as a summary.

### Section 10 - GAO Study of Data Disclosures

This section would direct the GAO to examine HUD's disclosure of FHA data and to consult with prominent academics with housing market experience regarding the data that is disclosed. The GAO is asked to make recommendations regarding the data disclosed by the Secretary and to conduct a follow up study regarding implementation of the recommendations one year after the study is complete.

### **Section 11 - Stabilizing the HECM program**

This section would allow the Secretary to manage the HECM program through mortgagee letters issued concurrently with rulemaking. This will allow the Secretary to make changes quickly without eliminating the option for public comment.

# Section 12 – Publication of final rules relating to limiting seller contributions towards purchase related expenses

This directs HUD to finalize their proposed seller concessions rule.