

Asset Securitization Report

How the Senate Banking GSE Vote Might Play Out

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The Senate Banking Committee continued negotiations over the weekend on landmark legislation to overhaul the mortgage finance system, but it remains unclear when, or if, panel leaders will reschedule a key vote on the bill.

Senate Banking Committee Chairman **Tim Johnson**, D-S.D., and Sen. **Mike Crapo**, R-Idaho, the panel's top Republican, initially scheduled a committee vote April 29, but abruptly postponed it in a bid to win additional support. Discussions have been ongoing over the past week, but there is little concrete information about the status of the talks or when the vote might resume.

"Committee members on both sides of the aisle continued to talk over the weekend and their staffs worked all weekend to try and find more common ground that would attract additional bipartisan support for housing finance reform," Sean Oblack, a banking panel spokesman, said in a statement on Monday.

In light of the continued uncertainty, we offer three likely scenarios for how the situation could play out over the next couple of weeks.

Scenario #1: The homerun

The most hopeful outcome for supporters of housing finance reform is that Johnson and Crapo will quickly succeed in attracting several more Democrats to their existing coalition, perhaps giving the bill something close to 15 or 16 "yea" votes.

That number builds off of a current baseline of roughly 12 votes, comprised of the panel leaders along with the bipartisan coalition already supportive of legislation introduced by Sens. **Bob Corker**, R-Tenn., and **Mark Warner**, D-Va. last year. (The Johnson-Crapo bill is based upon the Corker-Warner legislation.)

Unfortunately, initial strong support for the bill has proven somewhat of a blessing and a curse for the reform effort. So many deals were struck in the writing of the Corker-Warner bill that Banking Committee leaders are now forced to walk a difficult line attracting more liberal and conservative members on the committee while keeping the original cosponsors on board.

While the Johnson-Crapo legislation already has the votes needed to pass out of committee, lawmakers need to attract at least a few more members, ideally Democrats, to sway Senate leadership to hold a floor vote this year. Getting those additional votes has proven a considerable

uphill battle, with ongoing fights over access for low-income and minority families and affordable housing programs reportedly still at the center of negotiations.

Some unsigned Democrats, including Sens. **Sherrod Brown** of Ohio and **Elizabeth Warren** of Massachusetts, have also warned about the role large banks would play in the new system, stoking fears that the overhaul could give them even greater market power.

Still, chatter on Monday suggests that internal talks are ongoing and that at least several of the remaining Democrats on the committee remain at the table. It also bodes well that the bipartisan negotiations have continued in good faith for months, with relatively little public posturing going on by lawmakers up to this point.

"They're working as if they're going to get there — they haven't given up," said **Mark Calabria**, director of financial regulation studies at the **Cato Institute** and a former top Senate Republican aide. "There certainly is the sense that some of the differences can be bridged."

Calabria added that the markup delay is somewhat unsurprising, because of the timing of the vote, which was initially scheduled for the Tuesday after lawmakers returned from a two-week spring recess.

"Ultimately, there are decisions that need to be made by members, not staff" who were generally at home in their districts during the crucial period leading up to the vote, he said. "Staff can only work out so much, especially on something this controversial."

Nevertheless, timing remains a sticky issue, as the window for a Senate floor vote narrows ahead of the midterm elections — even if Johnson and Crapo are able to cobble together a strong committee showing in the coming days or weeks. The legislation is still in dispute among some industry groups and housing advocates, and it's unclear that Senate leadership would want to put lawmakers in the position of taking a difficult vote so close to the election season, even with a strong mandate from the committee.

"Every day that ticks by, we're closer to the elections and Congress' focus shifts from policy to politics. The politics around GSE reform are difficult for members in tough reelections," said **Isaac Boltansky**, a policy analyst at **Compass Point Research & Trading**.

Scenario #2: The squeaker

The second, and perhaps most likely scenario at the moment, is that banking panel leaders aren't able to bring on a significant number of additional votes, and the committee soon cuts bait and forges ahead to pass the bill with the 12 or 13 existing "yeas." (The bill needs 12 votes to pass the committee.)

It's extremely unlikely the full Senate would take up the legislation in that case, but the vote could still prove a key milestone down the road if the debate is picked back up next year. It would also allow the bill to match the legislative progress of a much more conservative plan that

passed out of the House Financial Services Committee last summer, the Protecting American Taxpayers and Homeowners Act.

"Then it's cleared the same legislative hurdles as PATH Act, and will play a central role when the discussions pick back up in 2015," said Boltansky.

Still, to what degree the debate will resume, and in what form, remains unclear, because the committee will almost certainly be under new leadership. Johnson is slated to retire, opening up the seat for a new Democrat, perhaps Brown or Sen. **Charles Schumer**, D-N.Y., if the party maintains control of the Senate. And it's likely Sen. **Richard Shelby**, R-Ala., a conservative lawmaker, would resume the committee gavel if Republicans win a majority in the chamber. (His term expired as ranking member on the panel, but he still has two years left to serve out as chairman.)

"Just reporting a bill out of committee is useful for setting the baseline, but it wouldn't shock me if the baseline is completely reset again next Congress," said **Brandon Barford**, a partner at **Beacon Policy Advisors**.

Scenario #3: The strike-out

Finally, it's conceivable that panel leaders could simply let the bill die a quiet death behind closed doors, never resuming the vote at all. While this is a somewhat less likely option at the moment, given that negotiations are ongoing, it's certainly a possibility, particularly as more time passes without a public update.

Observers have noted that the committee will need to provide some kind of guidance on where the process stands in the near future to avoid further speculation about the status of the bill. The longer the process goes, the more pessimistic rumors are likely to abound.

"At some point toward the end of this week we'll need to hear something about a deadline," said Calabria. "If we don't, this process is going to drag out and go nowhere."

But observers cautioned that the failure to hold a vote could be the most damaging outcome for the committee.

"A full-scale breakup of the coalition would be extremely problematic — when that many cosponsors are brought on board and committee leaders are unable to maintain the coalition for a vote it reduces members' willingness to participate as actively in future reform efforts," said Barford. "Not being able to hold a vote would also be terrible for morale and disheartening for the staff who put a lot of time and effort into this bill and Corker-Warner."