

# National Mortgage News

## Dodd-Frank, Housing Reform Remain At the Top of Congressional Agenda

By: Victoria Finkle – January 7<sup>th</sup>, 2013

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The congressional playbook for the new year is a familiar one, as lawmakers will continue to oversee implementation of the Dodd-Frank reform law and possibly begin to make inroads on housing finance reform.

Banking reform is no longer at the top of the agenda after the huge legislative push during and after the financial crisis, when Congress created the Federal Housing Finance Agency and the Troubled Asset Relief Program, and passed two laws overhauling the credit card and financial services industries.

Those watching the Hill say that this year, like the two years before it, is likely to be characterized more by industry oversight than major legislative items.

"Not a lot got done last term, and in many ways that was purposeful. Congress was unusually active" after the crisis, said Amy Friend, a managing director at Promontory Group and former chief counsel to the Senate Banking Committee. "You can't sustain that kind of pace, nor should you. Then what you need to do is exercise that robust oversight function."

Holding hearings, conducting investigations and supervising the writing and implementation of new rules may be perceived as less exciting than lawmaking, but observers say it's equally critical.

"Congress can exert tremendous power through the hearing and oversight process with or without a legislative response," said Aaron Klein, director of the Financial Regulatory Reform Initiative at the Bipartisan Policy Center. "It can help the agency break through a regulatory logjam that's holding it back if there are substantive disagreements, and help prioritize the ordering of rules being written."

Following on the last two years, lawmakers will likely hold a number of hearings on implementation of Dodd-Frank, including the so-called Volcker Rule, a ban on proprietary trading at commercial banks. Regulators are expected to finalize the rule early this year.

"I think that the banks have already responded to proprietary trading and the Volcker Rule, but the rules have to be clear for the banks or they're not going to be able to work and they're not going to be able to have liquid markets," said Rep. Carolyn Maloney, D-N.Y.

Such oversight efforts could also be used to shed light on additional concerns, including the need for more criminal prosecution of banking crimes.

"I'd like to see that somebody's held accountable on some of these things," said Rep. Steve Pearce, R-N.M., pointing to HSBC's recent Department of Justice settlement for \$1.9 billion over money laundering charges. "I would like a little fairness in the playing field-somebody that recognizes the small rural areas of the nation and holds accountable MF Global, HSBC."

Lawmakers interviewed for this article pointed to several areas of focus for the new year, including oversight, selected changes to Dodd-Frank and reform of the government-sponsored enterprises Fannie Mae and Freddie Mac.

"I would hope that we'll be dealing with GSE reform, there's some refinement and oversight that needs to be conducted with respect to Dodd-Frank, and I personally want to see if we can focus on trying to help improve capital formation in the markets generally," said Sen. Michael Crapo, R-Idaho, who will serve as the top Republican on the Senate Banking Committee this year.

New leadership on both the House and Senate banking committees will also play a critical role in determining panel priorities. Free-market advocate Rep. Jeb Hensarling, R-Texas, will serve as chairman of House Financial Services, alongside ranking member Rep. Maxine Waters, and whether the two can forge a working relationship remains to be seen.

The same is true for Sen. Tim Johnson, D-S.D., who will return as chairman of the Senate banking panel and Crapo, the new ranking member, though the two are said to have worked together before and are considered more moderate members of their parties.

"Very clearly to my mind, personalities have had a big effect on the banking committees over the years-personalities of the leaders," said Oliver Ireland, a partner at the law firm Morrison & Foerster. "If you look at Mr. Frank"-Barney Frank, the outgoing ranking member on the House Financial Services Committee-"he had a definite style and point of view on things, and I think that showed through. I think we need to see how those develop going forward."

Leadership style may prove just as important as lawmakers' priorities for what can actually happen.

"I'm going to keep a lot of attention on where, especially early in Congress, they hold oversight hearings," Klein said. "What topics they find of interest and where they focus their use of soft power-that is, bringing witnesses and regulatory agencies before Congress to explain the actions chosen and to answer questions about alternatives."

Those pushing for legislative adjustments to Dodd-Frank scored an early victory in the lame-duck session, when the Senate passed by unanimous consent a bill to provide better protection of information banks share with the Consumer Financial Protection Bureau.

"If there's political will on both sides, then you can pass technical corrections, and here's

a perfect example," Friend said. "People on both sides of the aisle said this is something they must do and they came together and fixed it. We hadn't seen that since in 2010."

It's not yet clear that success on the relatively uncontroversial issue is a sign of things to come, but many have said that President Obama's re-election marks the end of serious discussions about outright repeal of Dodd-Frank.

"The election confirmed Dodd-Frank for good or for bad. Its defenders can move away from a defensive posture and start talking about making it work better," said Mark Calabria, director of financial regulation studies at the **Cato Institute**. "I expect significant discussions and tweaks along those lines."

Observers point to several areas that could be ripe for discussion, including some of the derivatives provisions in the law. But whether lawmakers will be able to find areas of bipartisan agreement isn't clear, though several Republicans said they will be focused on trying.

"There's obviously still a lot of disagreement on whether Dodd-Frank went too far and what kind of market changes it's causing, so obviously there will be some of those that will be easier to get consensus on, some of them will be more difficult. One of the things we'd want to do is look at those things there may be more bipartisan agreement and try to push those through and just keep slugging at the rest of them," said Rep. Randy Neugebauer, R-Texas.

Rep. Scott Garrett, R-N.J., said it is still unclear how any modifications will pass. "Through our hearings we'll be looking at Dodd-Frank and several pieces of that and see whether we can get some bipartisan legislation through. Whether we need to do that piecemeal or in larger segments remains to be seen."

Lawmakers and those watching the Hill said housing finance reform will also remain a top priority.

"I hope we'll certainly tackle housing finance, finally-both reforms to Fannie and Freddie, but also FHA and other programs," said Sen. Bob Corker, R-Tenn. "Obviously it's an issue that's been around for a long time. I think both sides of the aisle know we need to address it. I think everybody knows it was put off because of the presidential race. Hopefully we'll do some strong and valid things as it relates to Fannie and Freddie but also FHA."

How that battle will play out and who the major players will be is yet to be determined, observers say. Many expect Hensarling to make the issue a high priority on the House banking panel.

"Hensarling is pretty much committed to try and change the narrative on the GSEs, and is willing to try and push it even if it's not something he thinks can win," said Calabria, while warning that the new chairman will first need to find consensus within his own party.

"There's a very large segment of the Republican caucus who would rather not see GSE reform, or would like to see it done in a way that is simply a version of the status quo. I don't think Hensarling is willing to live with that."

He added that other players could be significant in that debate, possibly including Senator-elect Elizabeth Warren, D-Mass., founder of the CFPB.

"There certainly will be some wild cards. Elizabeth Warren was pretty hard on big banks and bailouts. Is she going to bring that same attitude to Fannie and Freddie? I'm not convinced she won't," Calabria said.

"It's not clear that she's going to get involved on that, but she's certainly not been a defender of Fannie and Freddie. If she gets behind GSE reform, it certainly gives other Democrats some cover."