

NOMINATION OF MELVIN L. WATT  
TO BE DIRECTOR OF THE FED-  
ERAL HOUSING FINANCE AGEN-  
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The PRESIDING OFFICER. The clerk will report the nomination.

The bill clerk read the nomination of MELVIN L. WATT, of North Carolina, to be Director of the Federal Housing Finance Agency for a term of 5 years.

The PRESIDING OFFICER. Pursuant to the provisions of S. Res. 15 of the 113th Congress, there will now be up to 8 hours of postcloture consideration of the nomination, equally divided and controlled in the usual form.

The Senator from Connecticut.

ORDER OF PROCEDURE

Mr. MURPHY. Madam President, I ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m., and that the time during the recess count postcloture on the Watt nomination with the time equally divided in the usual form.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Idaho.

Mr. CRAPO. Madam President, I rise today to discuss the nomination of Representative WATT to lead the Federal Housing Finance Agency, or FHFA. Unfortunately, I cannot support this nomination, and I must urge my colleagues not to support it either.

I did not come to this decision lightly, and I regret we are placed in a situation where we cannot support a well-liked Member of Congress. However, by making a political appointment, the President has ignored the importance that the head of the FHFA be independent and viewed as nonpolitical. This is not a cabinet position, where the nominee is supposed to be an advocate for the President. Instead, this is an independent agency with a highly complex task impacting our entire economy, and it is for this reason many Senators noted the need to avoid politics and to emphasize the technical expertise needed to fill this position.

Regrettably, this did not occur, and we stand here today with the majority party apparently willing to confirm a political figure to this highly technical position. Worse yet, they appear to be ready to do it in a highly political manner that ignores decades of Senate rules and precedents.

Representative WATT has led a long and distinguished career in the House of Representatives and in legal practice. He is well liked by his colleagues, regardless of whether they see eye to eye with him on the issues, and he has a tremendously compelling personal story. My opposition to this nomination has nothing to do with Representative WATT from a personal perspective. To the contrary, there are many positions in government to which Representative WATT could have been easily confirmed.

In demonstration of that point, it is worth noting that most of the President's nominees that have come through the Banking Committee have been confirmed with strong bipartisan votes, often with unanimous consent. In fact, four nominees who appeared at a nomination hearing with Representative WATT were all approved by voice vote.

However, this position is distinctly unique within our government. Thus, our evaluation of any nominee requires additional scrutiny. The Director of the FHFA is conservator of Fannie Mae and Freddie Mac, which have operated under Federal control since they were taken over in 2008 because they didn't have enough capital to support expected losses.

Since that conservatorship began, we have seen the bill to the American taxpayers rise to nearly \$200 billion. The Housing and Economic Recovery Act, or HERA, established the FHFA and the rules of the conservatorship. It specifically grants the FHFA the power to operate Fannie and Freddie "with all the powers of the shareholders, the directors, and the officers," so long as they remain in conservatorship.

FHFA's conservatorship of Fannie and Freddie triggered those broad powers and the Director of the FHFA now stands alone as the regulator, the top executive, and the shareholder of Fannie Mae and Freddie Mac and their combined \$5 trillion of portfolio. Because of this immense power vested in the Director of the FHFA, it is a position that requires an in-depth knowledge of and experience with numerous aspects of the housing markets and mortgage industries.

The statute explicitly requires that, at a minimum, any nominee:

... have a demonstrated understanding of financial management or oversight, and have a demonstrated understanding of capital markets, including the mortgage securities markets and housing finance.

Additionally, to be successful, it is logical that any nominee should also have knowledge of and experience with investment portfolios, the operations of both public and private insurance and guarantees, and the management skills necessary to oversee the nearly 12,000 employees employed by both entities.

Since this position has virtually unchecked power to control two multi-trillion dollar companies, and because the companies control so much of our mortgage-backed securities market, the decisions of the FHFA Director will have tremendous impact on our housing market and, collaterally, on the global market.

If we are to give anyone this much power, we must know for certain that he has the experience to know how to make the right choices and, frankly, the political independence to make those choices, even if they are unpopular.

One reason this is so important is the impact on the taxpayer. Even a few basis points of losses could mean billions in the context of multitrillion dollar companies. That would be on top of the nearly \$200 billion the taxpayers have already shouldered.

With those unique risks in mind, the FHFA has taken great strides during the conservatorship to shore up the business practices of Fannie Mae and Freddie Mac. Underwriting standards have been tightened, portfolio holdings have been reduced, guarantee fees have been increased, and risk is being gradually transferred from the taxpayer to the private sector.

With these changes, the revenues of Fannie and Freddie have increased, their risks have decreased, and, for now, they have regained a certain amount of profitability. This current profitability creates its own set of challenges and questions. But one thing is certain: Any return to policies of the past, whether with social goals in mind or merely by mistake due to lack of technical experience, could expose the taxpayer to immense risk.

In addition to the risks associated with their current operations, the Director will also have a substantial impact on the prospects of the success of these reforms. While Congress and the White House will determine how to reform and strengthen our housing finance system, we need to be able to rely on the director of the FHFA for advice and guidance as we proceed. For this to work effectively, the FHFA Director will need to be seen as a technical expert who is not viewed as a political advocate for the President.

The Director of the FHFA must have the market experience to understand how any proposed changes would or would not work, how they would impact access to mortgages while protecting taxpayers from losses, and how they would affect our housing market and economy as a whole.

One example: There is a lot of interest in developing markets in a manner to ensure there is adequate private capital taking the first loss to protect the taxpayer, if there is to be some sort of government guarantee in the future. Some proposals call for the development of various private-sector risk-sharing mechanisms, including senior subordinated deal structures, credit-linked structures, and regulated bond guarantors.

Many are looking at what the FHFA has already begun working toward as a test for the viability of capital markets' risk-sharing transactions. These risk transfer deals—known within Freddie as the STACR deal, and within Fannie as the NMI and C-Deals—are important examples of how private capital can partake in this market at a higher level. They are also critical examples of why the FHFA Director must have a deep and sound understanding of

the demands of capital market investors.

In constructing and monitoring these deals, we need to know that decisions in how to balance the necessity of encouraging private markets with the protection of the taxpayers are being made based upon effective market analysis, absent the political preferences of one individual.

Another important aspect of the transition will be development of the common securitization platform. FHFA has noted that the GSEs' infrastructures are ineffective when it comes to adapting to market changes, issuing securities that attract private capital, aggregating data or lowering barriers to market entry. As such, there must be an updating and continued maintenance of the enterprises' securitization infrastructure.

This is an incredibly complex undertaking that will take years to develop, but it is an essential component of most reform proposals. Because of this, it is incredibly important the Director, on day one, has the technical expertise and the commitment to establish this potential utility similar to ones used in securities markets.

All of us are currently witnessing the consequences of political people leading technical platform development as we watch the continued failures of the rollout for ObamaCare. We cannot afford the same mistakes in the context of our \$5 trillion mortgage market.

The management of the current assets of Fannie and Freddie is another essential component of the Director's task, for many reasons, both currently and in the future. When Congress passed HERA authorizing the FHFA Director to appoint the agency conservator of the GSEs, it authorized FHFA to put the GSEs in a "sound and solvent condition," and to "preserve and conserve the assets of the properties" of the GSEs.

Congress very specifically intended that the assets of Fannie and Freddie be managed in such a way to maximize payments to the Treasury in exchange for bailing out the GSEs in 2008 and to maximize their value in whatever system is designed for the future. Acting Director DeMarco has done a commendable job fulfilling this task.

However, some believe that other statutory provisions trump this mandate and advocate using the GSEs in manners they believe would achieve other policy goals. Representative WATT noted at his confirmation that, if confirmed, he would decide whether there is sufficient capital to fund various social programs.

In order to ensure the taxpayers are made whole and to best position the secondary market for reform, we cannot afford the FHFA Director to make any decisions that do not first prioritize the preservation and conservation of taxpayer assets. So long as

Fannie Mae and Freddie Mac are in conservatorship, profits accumulated by the GSEs should not be used to fund social programs.

Additionally, we cannot return to any of the policies that contributed to the housing crisis, such as further pressing the GSEs' affordable housing goals. Decisions affecting social housing policy should be made through congressional action on housing financing reform.

One final yet incredibly important element of the unique qualifications is regulatory interaction. In a new housing finance system, the already complex web of regulatory interaction between various Federal banking regulators and Federal and State regulators becomes further muddled. State insurance regulators and State banking supervisors must communicate effectively with Federal counterparts.

As this system is being built, the FHFA must coordinate effectively with prudential banking regulators and the CFPB to make sure we are not bogging down our economy with duplicative regulation. To accomplish this the Director needs not only to have an understanding that is built of highly technical expertise, but this person must be seen by other regulators as acting without political intent.

For all of these reasons, and many more, the conservator must be an apolitical financial regulator with the technical expertise who will resist political pressure from all sides of the political spectrum.

Joseph Smith, the last nominee for this position, failed to win confirmation by the Senate because of concerns over whether he was independent enough. At the time of Representative WATT's nomination, the White House was fully aware that these concerns have only been heightened since then.

In the wake of repeated attempts by outside political groups and individuals to influence the decisions of the conservator and in view of the countless complex decisions—of which I have only mentioned a few—numerous Senators repeatedly called for a technocrat rather than a political figure. However, rather than acknowledging the unique aspects of this job, the White House chose to ignore calls to emphasize technical expertise and political independence in their search. As a result, their nominee failed to be confirmed by this body just a few weeks ago. Yet again the White House failed to accept the advice of the Senate.

Today, because of a historical rewrite of Senate rules, we are now facing another vote. Instead, this time the White House and the Democrats in the Senate chose to break the rules of this body so that they could push through Representative WATT and other nominees in partisan votes. I am disappointed with the White House and those in the Senate who supported this

rewrite of our rules, and at some time we will all likely be disappointed that these are the rules of this body moving forward. However, I continue to be opposed to this nomination and urge my colleagues to vote no today when the vote comes before us.

I yield the floor.

#### RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:31 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

The PRESIDING OFFICER. The majority leader is recognized.

#### NOMINATION OF MELVIN L. WATT TO BE DIRECTOR OF THE FEDERAL HOUSING FINANCE AGENCY—Continued

Mr. REID. On the matter now before the Senate, how much of the time that remains is controlled by the Democrats?

The PRESIDING OFFICER. There is 147 minutes.

Mr. REID. That is a little over 2 hours. How much time for the Republicans? The same?

The PRESIDING OFFICER. There is 130 minutes for the Republicans.

Mr. REID. Oh, I see. Why don't we yield back 130 minutes of our time. That would leave us 14 minutes or something like that?

The PRESIDING OFFICER. Seventeen minutes.

Mr. REID. That is far too much time. I yield back another 10 minutes.

The PRESIDING OFFICER. The majority leader's time is now set to 7 minutes.

The PRESIDING OFFICER. The Republican whip.

#### HEALTH CARE

Mr. CORNYN. Madam President, 4 years ago Members of both parties came to this Senate floor virtually every day to discuss the problems with America's health care system and offered suggestions for how we could remedy that.

I distinctly remember being here on Christmas Eve, 2009, at 7 in the morning and witnessing a party-line vote on ObamaCare. All of our Democratic friends voted for it, and all Republicans voted against it. I guess the most charitable thing I can say is that our Democratic friends actually thought it would work while Republicans were skeptics about this big government takeover of one-sixth of our national economy.

Well, 4 years later the cost of ObamaCare has become abundantly clear. I don't think it is an exaggeration to say that ObamaCare is the biggest case of consumer fraud ever perpetrated in this country. A law that