The Daily Dish

FSOC Whiffs Again

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The Financial Stability Oversight Council (FSOC) was created by the Dodd-Frank Wall Street Reform and Consumer Protection Act ("Dodd-Frank") to identify, quantify, and mitigate systemic risks to the U.S. financial system. It is destined to fail, largely because it simply cannot identify, quantify, and mitigate systemic risk. Blind pigs have found more acorns than the FSOC has generated valuable financial market policies.

Nevertheless, the FSOC beavers onward and reinvents its mission largely based on the political whims of the current administration. In this administration it is the ceaseless quest to extend the scope of financial regulation to "shadow" enterprises. Most recently, the FSOC released its Report on Nonbank Mortgage Servicing, which contains this gem:

> *Ensuring continuity of servicing operations:* The Council encourages Congress to consider establishing a fund financed by the nonbank mortgage servicing sector to provide liquidity to nonbank mortgage servicers that are in bankruptcy or have reached the point of failure. The fund should be designed to facilitate operational continuity of servicing, including loss-mitigation activities for borrowers and advancement of monthly payments to investors, until servicing obligations can be transferred in an orderly fashion or the company has been recapitalized by investors or sold. The legislation should outline the scope and objectives of the fund, which include avoiding taxpayer-funded bailouts. The legislation should also provide sufficient authorities to an existing federal agency to implement and maintain the fund, assess appropriate fees, set criteria for making disbursements, and mitigate risks associated with the implementation of the fund. The establishment of such a fund should be accompanied by the additional regulatory authorities and consumer protections recommended in the Council's report.

The report was greeted by a howl of principled protest from a bipartisan quartet of financial experts and former policymakers. They wrote that they are "taking the unusual step of joining forces to oppose a Treasury Department proposal on mortgage servicers that would further entrench the cycle of private gains and public bailouts that pretty much all Americans hate."

They take pains to note that since the passage of Dodd-Frank the mortgage market has changed significantly:

> Massive growth in nonbank mortgage companies is one of the major structural changes that's occurred in the mortgage market since it played a star role in the global financial crisis of 2008. Back then nonbank companies owned servicing rights for 4 percent of mortgages; today it is 54 percent. For Ginnie Mae, which includes VA, USDA and FHA mortgages, it's well over 80 percent . Whether these companies originate your mortgage directly, or you get your mortgage from a bank or credit union, it's likely that your mortgage would be serviced by a nonbank.