Business Day

A Revolving Door Helps Big Banks' Quiet Campaign to Muscle Out Fannie and Freddie

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Decades ago, Fannie Mae, whose Washington headquarters are seen here, was created to help provide prospective homebuyers with financing in both good times and bad.
CHIP SOMODEVILLA / GETTY IMAGES

By GRETCHEN MORGENSON
DECEMBER 7, 2015

Seven years after their dubious lending practices helped push the United States economy to the brink of disaster, the nation's largest banks are closing in on a longsought goal: to unseat Fannie Mae and Freddie Mac, the mortgage finance giants, and capture their share of the profits in the country's $5.7 trillion home loan market.

Taking place largely behind the scenes, the movement to take over the mortgage market has been propelled in part by a revolving door between Washington and Wall Street, an investigation by The New York Times has found.

While the big banks' effort to enshrine their vision into law has failed so far, plans to replace Fannie and Freddie — which have long supported the housing market by playing a unique role as so-called government-sponsored enterprises, or G.S.E.s — are still very much alive. The Obama administration has largely embraced the idea, and government regulators are being pushed to put crucial elements into effect.

A review of lobbying records, legal filings, and internal emails and memorandums, as well as housing officials' calendars and White House and Treasury visitor logs, illuminates the banks' effort. Assisting in this work, the documents show, is a group of high-level housing finance specialists who have moved back and forth between public service and private practice in recent years.

The charge began under Michael D. Berman, who has served not only as chairman of the Mortgage Bankers Association, one of the industry's most influential lobbying organizations, but also as a senior adviser to Shaun Donovan, who was the secretary of Housing and Urban Development from 2009 to 2014.

Conversely, Mr. Berman recruited David H. Stevens — who was one of the lead architects of the Obama administration's proposal to phase out Fannie and Freddie — to the mortgage bankers group, where Mr. Stevens is now president and chief executive.

Many in Congress believe Fannie and Freddie contributed to the collapse of the housing bubble, and they still rest on a shaky financial foundation, largely because of actions taken by the Treasury and the companies' regulator.

While they continue to pose a risk to taxpayers, Fannie and Freddie so far have not been replaced by Wall Street behemoths, partly because local banks popular with many lawmakers are resistant. Moreover, some members of Congress are concerned that low-income borrowers would not be well served by private lenders.

In and Out of the Revolving Door

Moving back and forth between private practice and public service, several people had central roles inside the Obama administration in developing a new housing finance policy that would phase out Fannie Mae and Freddie Mac, the huge government-backed mortgage firms. After leaving office, three of these former officials, now with connections to various large financial institutions, met several times with government officials to discuss issues related to Fannie and Freddie.

Key Housing Finance Policy Makers

Government job

Switch from government to private sector, or vice versa

Private sector job

Meetings with government representatives

POSITION HELD

'07 '08 '09 '10 '11 '12 '13 '14 '15

David H. Stevens

PRESIDENT OF AFFILIATED BUSINESSES
Long & Foster, the nation's largest privately held real estate company

PRESIDENT
Long & Foster

ASS'T SECRETARY OF HOUSING and FEDERAL HOUSING COMMISSIONER
Department of Housing and Urban Development (HUD)

PRESIDENT and CHIEF EXECUTIVE
Mortgage Bankers Association, the leading lobbying organization for the mortgage industry
Hired by Michael Berman

Michael D. Berman

FOUNDER and CHIEF EXECUTIVE, from 1985 until ending his association with the company in September 2012
CWCapital, a leading commercial real estate lender

VICE CHAIRMAN
Mortgage Bankers Association

CHAIRMAN
Mortgage Bankers Association
Berman's priority here was to "lead the battle to restructure" Fannie and Freddie

SENIOR ADVISER FOR HOUSING FINANCE
HUD
Here, he focused on the future of Fannie and Freddie

OWNER
Michael Berman Consulting, a private consulting firm to real estate lenders

Jim Parrott

ATTORNEY
Smith, Anderson, Blount, Dorsett, Mitchell & Jernigan LLP

COUNSEL TO SECRETARY
HUD
Advised on housing finance

SENIOR ADVISER
National Economic Council, The White House
Advised on housing finance

SENIOR FELLOW
Urban Institute
OWNER
Falling Creek Advisors, a consulting firm to financial services companies

The Humbling of the Housing Giants

JULY 30, 2008
Congress passes the Housing and Economic Recovery Act of 2008. The law creates the Federal Housing Finance Agency, a new and tougher regulator for Fannie and Freddie, and increases capital requirements at the companies.

SEPT. 6, 2008
The F.H.F.A. places Fannie and Freddie into conservatorship.

FEB. 2011
The Obama administration issues its white paper on housing finance reform. Officials recommend winding down Fannie and Freddie.

AUG. 17, 2012
The Treasury Department and FHFA announce a change to the government bailout terms, which sweeps all future profits from Fannie and Freddie into the Treasury's general fund.

JUNE 25, 2013
Bipartisan legislation to wind down Fannie and Freddie is introduced by Senators Bob Corker (Republican of Tennessee) and Mark Warner (Democrat of Virginia). The bill would distribute their assets and create a new housing finance system. It does not pass.

By The New York Times

For all the problems associated with Fannie and Freddie, some housing experts say, allowing the nation's largest banks to assume greater control of the mortgage market would most likely increase costs for borrowers. It would also reduce participation and competition from smaller lenders, and could imperil taxpayers because of the potential for even greater bailouts for financial institutions that Washington considers too important to be allowed to fail.

Elise J. Bean is among those who are troubled by the quiet advances Wall Street is making toward Fannie and Freddie's turf. A former chief counsel for the Senate Permanent Subcommittee on Investigations, Ms. Bean oversaw a bipartisan investigation into the causes of the financial crisis, playing a central role in the committee's four hearings and helping produce a revealing 650-page report.

"Fannie and Freddie have their flaws, but that doesn't mean the answer is to hand over their business to the banks," Ms. Bean said. "Their role in the mortgage market is too important to put under the thumb of banks with a history of toxic mortgages, structured finance abuse and consumer maltreatment."

Behind the Bailout

Decades ago, Fannie Mae and Freddie Mac were created by the government to provide prospective home buyers with financing in both good times and bad. Fannie was born in 1938 during the Depression, when bank lending dried up. The company didn't make mortgage loans outright; it bought them from other entities. Later, it pooled loans in securities that it sold to investors.

If credit was scarce, the thinking went, banks would be more inclined to lend knowing they could sell a loan to Fannie or to Freddie, a competitor company created in 1970. A bank could then turn around and make another loan, earning fees while keeping the housing finance wheels spinning.

In addition to benefiting borrowers, this system enabled small community lenders to sell their loans to Fannie and Freddie as easily as even the biggest guns in banking. This gave borrowers a choice of lenders, encouraging competition and keeping costs down.

Although government creations, Fannie and Freddie also had public shareholders. Fannie sold shares for the first time in 1968 and Freddie followed suit two decades later. As the nation's economy grew and homeownership expanded, Fannie and Freddie became increasingly powerful and profitable institutions.

The unusual hybrid of shareholder-owned companies carrying the government's imprimatur worked well for a long time. But the combination turned sour in the 1990s when Fannie executives began using the company's lush profits to finance lobbying efforts that enhanced their stature and independence in Washington.

Throughout these years, Fannie and Freddie's mounting profits, generated in part by their special ties to the government, which put them at a financial advantage, also drew resentment from the nation's largest banks.

Fannie's success wound up being a double-edged sword. Its enfeebled overseer, the

Office of Federal Housing Enterprise Oversight, allowed its enormous operations to rest on the tiniest sliver of capital, increasing profits during the fat years. But when the financial crisis hit, expected loan losses at both Fannie and Freddie overwhelmed the small amount of capital the companies had on hand.

About a week before Lehman Brothers collapsed in September 2008, the government stepped in. It put Fannie and Freddie into conservatorship under the Federal Housing Finance Agency, a new and stronger regulator created that summer in the Housing and Economic Recovery Act. The companies ultimately drew about $187.5 billion from taxpayers in the bailout. They were put on a tight leash by their government minders and were viewed as political poison by Democrats and Republicans alike.

In an interview on CNBC on Sept. 8, 2008, Henry M. Paulson, the Treasury secretary, talked about the government's rescue of Fannie and Freddie as a steppingstone to a new housing finance system. "Heaven help us and our nation if we don't figure out what the right structure is going forward," he said.

Devising Alternatives

Michael Berman, former chairman of the Mortgage Bankers Association, has also worked at Housing and Urban Development. He recruited another government official to succeed him at the mortgage bankers group.
RYAN STONE FOR THE NEW YORK TIMES

The ink was barely dry on the Fannie and Freddie bailout when the Mortgage Bankers Association got busy. Mr. Berman, then vice chairman of the lobbying group and founder of CWCapital, a commercial real estate lender and management firm specializing in multifamily housing projects, was tapped to organize a campaign to privatize the nation's broken home mortgage system.

With the housing market in collapse and Fannie and Freddie weakened and reviled, it was the perfect time to push the mortgage bankers' plan to take over the companies' business and divide their prized assets.

But with banks' popularity plummeting after the financial crisis, their proposal had to be carefully framed as a way to protect taxpayers from future bailouts.

When President Obama entered office in 2009, taking Fannie Mae and Freddie Mac off government life support was far down his administration's to-do list. But when officials began turning their attention to the matter in 2010, the industry-sponsored coalition was ready.

Its answer was to create new mortgage guarantors, backed by private capital, to take the place of Fannie and Freddie. These entities would issue mortgage securities with government guarantees, a report issued by the 22-member Council on Ensuring Mortgage Liquidity in late summer 2009 proposed.

The White Paper

> "The centerpiece of federal support for the secondary mortgage market should be a new line of mortgage-backed securities."

The language in the Mortgage Bankers Association's white paper about the future of housing

The council, overseen by Mr. Berman, was made up of mostly large banks and mortgage insurers. It also recommended that assets belonging to Fannie and Freddie "be used as a foundation" by the new entities.

Chief among these assets were the mortgage underwriting systems the government-sponsored enterprises had built to bundle loans into securities to be sold to investors.

“The M.B.A.’s position literally was: Get rid of Fannie and Freddie and create these new entities,” Mr. Berman said in a recent interview. “But there were extraordinary amounts of value in the enterprises to be reused in different ways in the new system.”

Michael Berman, then chairman of the Mortgage Bankers Association, testifying in March 2011 before the Senate Banking Committee on the future of the housing finance system.
SCOTT J. FERRELL / CONGRESSIONAL QUARTERLY, VIA GETTY IMAGES

At first, the industry’s views gained little traction. The economy was in tatters, and lawmakers were not yet ready to tackle the nation’s enormous and complex housing finance system.

Besides, Fannie and Freddie were providing virtually the only access American borrowers had to mortgages during this period. Yes, they were still drawing money from taxpayers, but at least the companies were financing loans as they always had, while big banks were withdrawing from the market.

Throughout 2009 and 2010, Mr. Berman and his colleagues pitched the mortgage bankers' ideas, saying that their plan would prevent the need for future bailouts and keep the home loan spigot open.

Berman's Testimony

> "The existing system extended an implied federal backing to all the activities of Fannie Mae and Freddie Mac, including not only their mortgage guarantees, but also their portfolio investments, derivative counterparties and corporate bondholders. Some of those activities were clearly undercapitalized, underpriced and under-supervised ."

From Michael Berman's testimony before Congress, which cites recommendations of the Mortgage Bankers Association.

As Mr. Berman made the rounds, administration officials at Treasury and HUD began working on their own plans regarding Fannie and Freddie. A primary participant in these discussions was Mr. Stevens, then commissioner of the Federal Housing Administration, a part of HUD.

Mr. Stevens had joined the housing administration in mid-2009 from the private sector, where he had been president of Long & Foster, the largest privately owned real estate company in the nation. Previously, he had been an executive at Freddie Mac and Wells Fargo.

Working on the future of Fannie and Freddie at HUD, Mr. Stevens attended large meetings of "G.S.E. principals," according to his calendars, which were obtained by The Times under the Freedom of Information Act.

At the same time Mr. Stevens was working on the administration's policy, he often interacted with high-level executives in the mortgage industry, his calendars show.

David Stevens, who succeeded Michael Berman as head of the Mortgage Bankers Association, spoke at a Senate Banking Committee hearing in September 2011.
ANDREW HARRER / BLOOMBERG, VIA GETTY IMAGES

There is, of course, nothing unusual about government officials meeting with various interest groups affected by potential policy changes. And during this time, Mr. Stevens was tasked with other matters involving big banks.

But Mr. Stevens's calendars show far fewer meetings with other groups in the mortgage arena, such as advocates of low-income housing or those representing middle-class borrowers.

Mr. Stevens said he recalled meeting with every type of stakeholder during this time. "My own view is you meet with everybody to get as much input as you can," he said.

But Robert Gnaizda, general counsel for the National Diversity Coalition, and former general counsel to the Greenlining Institute, a nonprofit consumer organization in Berkeley, Calif., said he ran into a wall of disinterest within the Obama administration when he tried to raise issues important to his constituents.

"It's been a long time since HUD was an effective advocate for homeowners, much less low- or moderate-income homeowners," Mr. Gnaizda said.

'A Bank-Centric Model'

Mr. Stevens was certainly not the only official meeting with the big banks and their advocates to discuss issues related to Fannie and Freddie. Executives were fanning out across Washington to educate and influence members of the government charged with devising the administration's new housing policy.

Four meetings on the topic took place at the Treasury Department in late 2010, records show. One hosted by Timothy F. Geithner, the Treasury secretary, included Brian Moynihan, the chief executive of Bank of America, and two founders of giant private equity firms: Stephen A. Schwarzman, head of the Blackstone Group, and Leon Black of Apollo Management Group.

Just before Christmas that year, the Treasury's staff finished fashioning a framework for resolving Fannie and Freddie, an internal document shows. The recommendations became public in a 31-page report to Congress, titled "Reforming America's Housing Finance Market," issued jointly by the Treasury and HUD on Feb. 11, 2011.

After all the meetings and discussions, the administration laid out three options for housing finance reform. But the message was clear: Fannie and Freddie's days were numbered. Working with the Federal Housing Finance Agency, the administration would reduce their role in the mortgage market and wind them down.

The policy to eliminate Fannie and Freddie was a page out of the mortgage bankers' playbook. And like the authors of that plan, the administration emphasized that taxpayers would be protected and that a new, level playing field would benefit all participants in the housing market.

In private, however, officials cited another group of beneficiaries under the plan: big banks.

An internal Treasury memo written on Jan. 4, 2011, to Mr. Geithner by one of his top deputies characterized the administration's first option to wind down Fannie and Freddie as "a bank-centric model" that "benefits larger institutions" with the capacity to hold mortgages on their books.

The Memo to Geithner

> "The bank-centric model reduces distortion in the allocation of credit and preference for housing. However, this model benefits larger institutions that have better access to funding and the capacity to hold fully diversified portfolios of residential mortgate risk. This could lead to increased concentration in the banking sector and higher costs for borrowers served by smaller institutions ."

The language in a memo to Secretary Geithner from one of his top deputies, describing some of the risks of a proposal to wind down Fannie Mae and Freddie Mac.

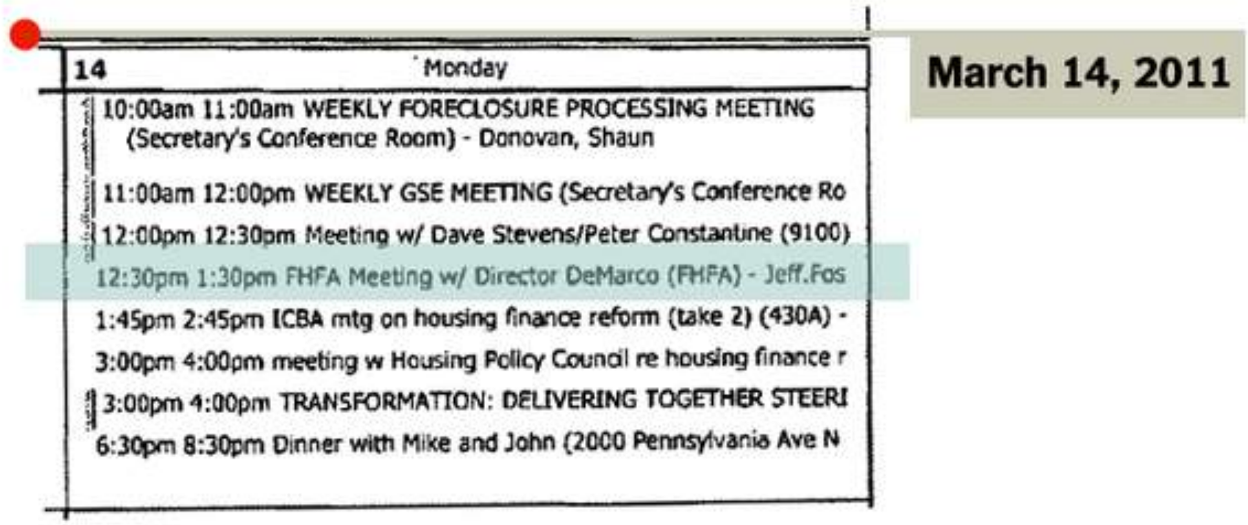
But this raw assessment didn't make it into the final report. While the report acknowledged that "smaller lenders and community banks could have a difficult time competing for business," the "bank-centric" nature of the plan was for internal consumption only.

Playing for Both Sides

Roughly a month after the administration published its long-awaited recommendations, Mr. Stevens agreed to become chief executive of the Mortgage Bankers Association. He had been hired away by Mr. Berman, who was promoted to chairman in 2010.

Mr. Berman proposed the move over dinner in early March 2011, according to a report in The American Banker.

It wasn't until March 15 that Mortgage Bankers announced the appointment. Mr. Stevens continued as commissioner of the Federal Housing Administration through March 31, 2011, his termination documents show. On March 14, for example, he met with Edward J. DeMarco, acting director of F.H.F.A., the conservator of Fannie and Freddie.



March 14, 2011

14 Monday

10:00am 11:00am WEEKLY FORECLOSURE PROCESSING MEETING (Secretary's Conference Room) - Donovan, Shaun

11:00am 12:00pm WEEKLY GSE MEETING (Secretary's Conference Ro

12:00pm 12:30pm Meeting w/ Dave Stevens/Peter Constantine (9100)

12:30pm 1:30pm FHFA Meeting w/ Director DeMarco (FHFA) - Jeff.Fos

1:45pm 2:45pm ICBA mtg on housing finance reform (take 2) (430A) -

3:00pm 4:00pm meeting w Housing Policy Council re housing finance r

3:00pm 4:00pm TRANSFORMATION: DELIVERING TOGETHER STEERI

6:30pm 8:30pm Dinner with Mike and John (2000 Pennsylvania Ave N

Mr. Stevens's calendars show that he met with Edward J. DeMarco, acting director of F.H.F.A., the conservator of Fannie and Freddie, not long before he moved to the Mortgage Bankers Association.
PHOTO ILLUSTRATION BY THE NEW YORK TIMES

At the lobbying organization, Mr. Stevens continued to argue for a smaller role in housing finance for Fannie and Freddie and a bigger role for companies backed by private capital. Although the mortgage bankers group represents both large and small lenders, under Mr. Stevens it has been an advocate more for big institutions, smaller members say.

In an interview, Mr. Stevens said he joined the government from the industry "to try to help at a time where I thought I had some value."

"When you're picking people for technical roles in the government," he continued, "they have to have some experience."

The movement between government and business has gone both ways. Mr. Berman eventually found his own lofty perch in the Obama administration at HUD, the same agency from which he had recruited Mr. Stevens. In November 2012, Mr. Berman signed on as a senior adviser to Mr. Donovan, the HUD secretary.

"My company gets sold and Shaun Donovan asked me to join him as senior adviser," Mr. Berman recalled in the interview. "He said to me in our first conversation that my major focus would be on G.S.E. reform, to work with him and be his liaison to the White House and Treasury and the National Economic Council as well as Congress on that issue."

In February 2014, Mr. Berman returned to the private sector, where he now advises real estate lenders. He said he has also informally consulted for the F.H.F.A.

A Rotating Cast at HUD

A revolving door between business and government is nothing new. But President Obama criticized the practice and in his first month in office issued an executive order intended to inhibit it. Many of the abuses of the past had ostensibly been outlawed by legislation.

Another former HUD official who worked on housing finance policy also consults for organizations that stand to profit from eviscerating the mortgage giants.

He is Jim Parrott, a research fellow at the Urban Institute and an adviser to financial entities. A confidant and colleague of Mr. Stevens at HUD, Mr. Parrott counseled Mr. Donovan from July 2009 to December 2010. He then moved to the National Economic Council at the White House, where he led housing finance policy until January 2013.

After leaving the White House, Mr. Parrott set up Falling Creek Advisors, a consulting firm whose clients have included Bank of America and a mortgage insurer.

Mr. Parrott said that when he left Washington, he planned to set up an institute of politics at the University of North Carolina. But financial institutions began asking for his help on housing. “I advise five or six companies; each of them are in different parts of the housing finance ecosystem,” Mr. Parrott said. “These folks are by and large thoroughly confused about what policy makers are trying to do.”

Michael Smallberg, an expert on ethics and until recently an investigator at the Project on Government Oversight, a nonpartisan independent watchdog group, said he was particularly disturbed by the comings and goings at HUD.

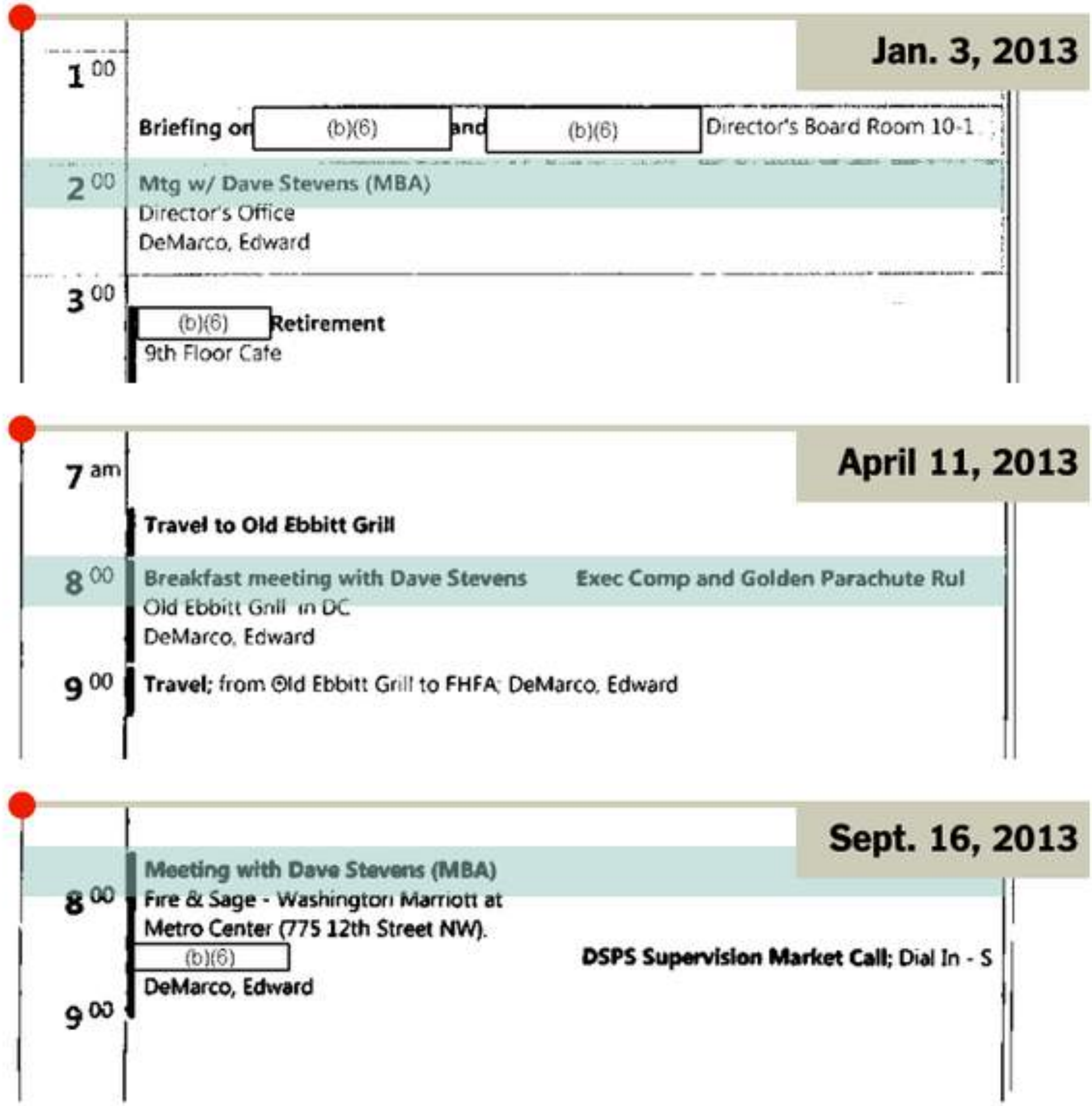
“This is a classic example of the revolving door at its worst,” he said. “These are large financial institutions that already have an edge when it comes to getting their voices heard on Capitol Hill and at their regulatory agencies. When you hear they are hiring the key policy makers to represent them, it raises serious questions that these decisions are being made not on the merits but on those personal connections.”

The Code of Ethics

After leaving their government posts, Mr. Berman, Mr. Parrott and Mr. Stevens all continued to work on housing finance. Meeting logs and calendars received under the Freedom of Information Act indicate that the three men have met with government officials in charge of matters involving Fannie and Freddie.

Mr. Stevens met or talked with housing policy officials most frequently: 19 times between February 2012 and April 2015. Since leaving the government, Mr. Parrott has had six meetings with housing officials at the White House; Mr. Berman has had two since starting his own firm, including one this past June.

Meeting logs show that Mr. Stevens met 13 times with officials at the White House working on Fannie and Freddie policy. He also met five times during the period with Mr. DeMarco, the former acting director of F.H.F.A., and had one phone call with him, Mr. DeMarco's calendars show.


Jan. 3, 2013

1 00

Briefing on (b)(6) and (b)(6) Director's Board Room 10-1

2 00 Mtg w/ Dave Stevens (MBA)

Director's Office

DeMarco, Edward

3 00

(b)(6) Retirement

9th Floor Cafe

April 11, 2013

7 am

Travel to Old Ebbitt Grill

8 00 Breakfast meeting with Dave Stevens Exec Comp and Golden Parachute Rul

Old Ebbitt Grill in DC

DeMarco, Edward

9 00 Travel; from Old Ebbitt Grill to FHFA; DeMarco, Edward

Sept. 16, 2013

Meeting with Dave Stevens (MBA)

8 00 Fire & Sage - Washington Marriott at Metro Center (775 12th Street NW).

(b)(6) DSPS Supervision Market Call; Dial In - S

DeMarco, Edward

9 00

Mr. Stevens has met dozens of times with government officials working on Fannie and Freddie since leaving his own government post, including several times with Mr. DeMarco, the former acting director of F.H.F.A., in 2013.
PHOTO ILLUSTRATION BY THE NEW YORK TIMES

Mr. Stevens said that his work at the Mortgage Bankers Association is being an advocate not on behalf of individuals or specific companies but "for an industry on a broad set of policy issues."

Mortgage Bankers
@MBAMortgage

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MBA: One Voice. One Vision. One Resource. --@DavidHStevens #MBAAnnual15

1:15 PM - 20 Oct 2015

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In the interview, Mr. Berman said he kept working on the project with administration officials not as an advocate but because of his "contacts and granular knowledge of what was going on."

Mr. Parrott also said his meetings did not involve advocacy on behalf of his clients. "I give them a sense of how people are thinking and how things are likely going to develop in their world," he said.

Under federal law governing conflicts of interest, former federal officials must take care that their actions in the private sector do not violate the rules. For example, a violation could occur if a former official who worked on a particular matter circled back to the government on behalf of another person or organization to try to influence officials' thinking on that issue.

Richard W. Painter, a law professor at the University of Minnesota and former chief ethics lawyer at the White House under President George W. Bush, is an authority on this section of the law. He was provided a list of the housing finance meetings.

Richard W. Painter, former chief ethics lawyer at the White House under George W. Bush, says that former government officials involved in decisions related to Fannie's and Freddie's finances are not allowed to circle back to the government on behalf of clients seeking to influence matters involving the mortgage giants.
TIM GRUBER FOR THE NEW YORK TIMES

"With respect to Stevens, Parrott and probably Berman, it appears that these officials participated personally and substantially in the administration's decisions about resolving the financial difficulties of Fannie and Freddie," Mr. Painter said. "This means that they each have a lifetime ban on representing back to the United States government on either of these two particular party matters involving Fannie and Freddie."

Mr. Stevens and his lawyer, Scott Fredericksen of Foley & Lardner, disagree. They contend that his work in the government involved developing public policy, not a "particular matter," as specified in the law. "The law is clear that Mr. Stevens's activities involving development of public policy and even proposed legislation are not encompassed within the prohibited activities outlined" in the statute, Mr. Fredericksen said.

Mr. Berman also said that housing finance reform is a general matter that does not fit in the law's definition of a "particular matter." In any case, he said, "Since leaving HUD, I have not attempted to influence any employee of HUD or any department or agency on policies regarding housing finance reform and specifically G.S.E. reform."

Mr. Parrott said that before he left the White House, he had careful consultations with the counsel's office about what he could and could not do in the private sector. They were very clear that the statute "does not prohibit me from talking to government officials about general policy issues like housing finance reform," he said. "I don't advocate for anyone, so I'm also not communicating or appearing 'on behalf of another,' as is also required to be in breach of the statute."

The United States Office of Government Ethics holds executive branch agencies accountable for carrying out effective ethics programs. Asked whether Mr. Stevens, Mr. Parrott or Mr. Berman had consulted ethics officials at HUD for legal guidance on their meetings, a spokesman for the agency, Cameron R. French, said he could not comment. "However, political appointees and career senior executives are required to meet with the ethics office before departing the department," he said.

Mr. Painter said that in his view, anyone who participated personally and substantially in decisions having to do with the government's financial relationship with Fannie and Freddie was working on a matter involving particular parties and governed by the law.

Mr. Painter said it was hard to know what was said at the meetings. But if Mr. Stevens, Mr. Berman and Mr. Parrott, "made statements at these meetings that were intended to influence government decisions in these two particular party matters involving Fannie and Freddie," he said, "they violated the statute."

The Case for Recapitalization

The Mortgage Bankers Association headquarters is at 1919 M Street NW in Washington.
DREW ANGERER FOR THE NEW YORK TIMES

Fannie and Freddie, still dominating the American mortgage market, not only have returned to the Treasury the $187.5 billion they received in the bailout, but also will have contributed another $53.8 billion by the end of December. Even so, an array of administration officials at both the Treasury and the White House have insisted in recent weeks that the government-run companies should not be allowed to recapitalize and emerge from conservatorship.

Despite generating huge profits since 2012, Fannie and Freddie have been kept financially weak, hobbled by their government minders during their years in conservatorship.

The argument against Fannie and Freddie rests on a powerful point: Radically reducing the government's footprint in the mortgage market could help protect taxpayers. Right now, with Fannie and Freddie backing 80 percent of the nation's mortgages, those risks sit squarely on the government's shoulders.

"The ideal version of housing finance reform is one in which we are clear about what's worked in the current system and what needs to be overhauled," Mr. Parrott said. What you want to avoid, he continued, "is a market duopoly that's got an implied government guarantee. It creates such a toxic mix of incentives where profit-seeking shareholders maximize risk and profit at the expense of taxpayers sitting there waiting to hold the bag if the thing goes south."

But bringing private capital into the mortgage securities market poses perils of its own, other housing experts say: Allowing too-big-to-fail banks to dominate the nation's mortgage market would crowd out smaller lenders and expand the federal safety net, putting taxpayers at greater risk of funding bailouts in a downturn. Relying on mortgage insurers to provide that capital also seems dubious given how badly these companies performed in the 2008 crisis.

Moreover, private capital would probably flee the mortgage market at the first sign of trouble, as it did during the recent credit debacle. This raises questions about the availability of home lending when such a system goes through a rough patch.

Lost in the debate over the future of Fannie and Freddie is the role Congress had in mind for the F.H.F.A. when it passed the Housing and Economic Recovery Act of 2008. Under the law, a conservator is supposed to put the regulated entities in a "sound and solvent condition" and "preserve and conserve" their assets and property.

Proponents of eliminating Fannie and Freddie say that allowing them to survive would also mean letting them go back to their abusive ways. The companies were a huge source of capital for reckless loan products, in Mr. Stevens's view. "We risk going back to that system," he said, because the public cannot count on regulators "to protect us going forward and constrain these guys."

But those who favor recapitalizing the companies — a group that includes hedge funds and other speculators that stand to gain, as well as supporters of low-income housing — say that the past need not be prologue. They contend that the companies could be restructured in a way that would prohibit dubious activities, and that allowing Fannie and Freddie to rebuild capital would reduce taxpayer risk.

The banks are continuing their push for access to Fannie and Freddie's assets and profits. But they are not putting all their eggs in the legislative basket. In recent months, they have urged Melvin L. Watt, director of the F.H.F.A., to put at least some of their recommendations in place administratively.

They are making inroads. The design of the new mortgage securitization system being built by Fannie and Freddie at significant expense — $146 million so far — allows for future access to outside institutions like the big banks. And Fannie and Freddie are being increasingly pressed to sell off portions of their securities to private entities. Big banks will benefit most from both arrangements.

Mr. Berman is encouraged by these moves.

"Over the last couple or three years under acting director DeMarco and following through with Mel Watt, from a regulatory standpoint the progress has been quite positive," he said.

Nicholas Fandos contributed reporting.

238 COMMENTS »

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7:52 AM EST | Yahoo has decided to keep its Alibaba stake and will instead look at transferring its other assets, including Yahoo Japan, into a new company.

Dow Chemical and DuPont Are Said to Be in Merger Talks

Two of the biggest and oldest chemical companies in the United States, each with a market value of roughly $60 billion, could become the world's second-largest chemical maker in terms of revenue.

If It Owns a Well or a Mine, It's Probably in Trouble

The mining giant Anglo American is cutting its global work force by more than half, while a quarter of a million workers in the global oil and gas industry have already been laid off.

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