



November 5, 2007

The Honorable Barney Frank, Chairman
The Honorable Spencer Bachus, Ranking Member
Committee on Financial Services
United States House of Representatives
Washington, DC 20515

Dear Chairman Frank and Ranking Member Bachus:

Tomorrow, the Financial Services Committee is expected to consider H.R. 3915, the "Mortgage Reform and Anti-Predatory Lending Act of 2007." The Mortgage Bankers Association (MBA) writes to share our concerns with you on how this bill will impact the market.

MBA is very appreciative of the open and deliberative process by which this legislation has been crafted. The discussions have been bipartisan, and they have involved regulators, consumer groups and industry. The result is a Managers' Amendment that makes several important and positive modifications to the original bill. We are happy to have had the opportunity to help improve this legislation. Nonetheless, we continue to have significant concerns including: the absence of a uniform and preemptive federal standard; the concept of "rebuttable presumptions;" a well-intentioned effort to help renters who are caught in the middle of a foreclosure; and the overly broad categorization of high-cost mortgages. These provisions, among others, will result in many Americans not receiving credit for which they would appropriately qualify and they prevent MBA from offering our support for H.R. 3915.

The Committee is expected to work from a Managers' Amendment that will be offered by both of you. We have had an opportunity to review this amendment and offer the following concerns:

1. Preemption of state and local laws: For several years, MBA has advocated a single consumer protection standard for all Americans. In order to achieve this important goal, we believe any bill passed by Congress in the realm of mortgage regulation should do several things: improve the mortgage process so consumers can be empowered with useful information; better align the incentives of brokers and other market participants with those of the borrower; and pre-empt state and local laws on this subject. The proliferation of state and local lending laws has resulted in an uneven environment for both consumers and lenders. Consumers do not have a single standard they can trust and lenders have to work with dozens of different standards around the country. In a national (international, in fact) mortgage market like ours, with a multitude of different regulatory and business

models, a single strong standard would best serve the entire market. The Managers' Amendment, as currently constituted, does not include broad federal preemption.

2. Rebuttable presumption: Title II of the Managers' Amendment allows the presumption of meeting the conditions of a qualified safe harbor loan to be rebutted against a creditor. MBA has significant concerns because, as written, the Managers' Amendment exposes a lender to liability even when loans satisfy the qualified safe harbor requirements. This undermines the true nature of a safe harbor, which, provided its conditions are met, should offset liability. The presence of rebuttable presumption will leave lenders guessing as to whether they will have liability making qualified safe harbor loans. This will result in them either not making these loans or increasing their cost.

3. Renter Provision: Title II of the Managers' Amendment requires that any successor in interest of a foreclosed property permit a tenant to reside at the property for 90 days. Such a requirement hampers the sale of foreclosed properties furthering the blight of our neediest communities.

4. High-Cost Loans: Title III of the Managers' Amendment significantly expands the scope of loans that qualify as high-cost loans or "HOEPA" loans, which lenders will not make because of the significant liability associated with them. Wherever HOEPA standards are set, it creates a de facto usury ceiling. We are particularly concerned with lowering the point and fee calculation to 5%, which would include prepayment penalties, yield spread premiums and most bona-fide discount points. By eliminating the opportunity for consumers to take advantage of these financing options, this low threshold will prevent legitimate mortgage lending and put homeownership out of the reach of many individuals.

Beyond these four key areas of concern, MBA shared more extensive and technical comments with your staffs and would be happy to discuss those with you as well.

Thank you for the opportunity to share our concerns on this very important legislation. The drafting of this legislation has been a model of a fair and open process, which we believe has considerably improved this bill. It is critical that we continue to work together to further improve this bill through the remaining legislative steps.

Sincerely,



Jonathan L. Kempner
President and Chief Executive Officer



Kurt Pfothauer
Senior Vice President
Government Affairs and Public Policy