



July 1, 2010

The Honorable Barney Frank
Chairman
Committee on Financial Services
U.S. House of Representatives
Washington DC 20515

The Honorable Christopher J. Dodd
Chairman
Committee on Banking, Housing & Urban Affairs
U.S. Senate
Washington DC 20510

Dear Chairmen Frank and Dodd:

On behalf of the Mortgage Bankers Association (MBA), I am writing to express our views on the Conference Committee approved H.R. 4173, the Dodd-Frank Act. While changes included in the Conference Report are helpful, MBA still believes that additional improvements can be made to limit the negative impact it will have on the businesses and consumers.

MBA strongly supports the conferees inclusion of the bipartisan Landrieu-Isakson amendment directing federal regulators to create a class of qualified residential mortgages that would be exempt from the bill's five percent risk retention requirement. This approach will incentivize lenders to adopt the highest lending standards, which we agree is the overall goal of additional risk retention.

MBA also supports the inclusion of a provision authored by Senator Crapo that would require regulators to consider alternative forms of risk retention that may be better suited for the commercial mortgage-backed securities (CMBS) market. This language appropriately recognizes the unique nature of the CMBS market, provides greater flexibility with regard to the various forms of retained risk, furthers the goal of aligning interests across transactional parties and represents a significant step toward restoring the CMBS markets.

In addition to the final Conference Report language on risk retention, MBA was pleased to see that the legislation made improvements to Title XIV, Subtitle F ("*Appraisal Activities*") that will give the regulators the authority to ensure independence in the appraisal process that protects both consumers and lenders. We believe these changes, as well as a number of other technical corrections, improve the final legislation.

Title XIV of the Dodd-Frank Act contains minimum underwriting requirements. MBA strongly supports sound underwriting and, for this reason, urges Congress to provide a clear safe harbor for qualified mortgage loans, similar to the provisions in the risk retention section discussed above. We remain concerned that the safe harbor in this section of the Conference Report does not offer adequate legal protection for qualified mortgages, and that all of the appropriate regulators are not involved in developing the safe harbor.

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Failure to provide legal certainty will unnecessarily increase costs and reduce the availability of affordable mortgage financing. Qualified mortgages, by definition, are properly underwritten and should meet the law's requirements without additional regulatory and legal burdens. Moreover, under the Conference Report, a loan that does not meet the definition of qualified mortgage will carry enormous legal risk for its entire term. If lenders are uncertain as to whether a loan product falls within the definition, the costs of credit to consumers will increase and many loans may not be made at all. We, therefore, believe that a clear safe harbor for qualified mortgages, not just a mere "presumption," should be established.

We also remain concerned that the bill, especially in Title XIV, may "hardwire" in statute overly restrictive underwriting parameters. This approach would deprive regulators of the necessary flexibility to respond to changing market conditions. Affording the regulators appropriate discretion in this regard can help ensure that lenders have the ability to meet consumer credit needs while also maintaining safe and sound lending practices.

While the Conference Committee addressed a number of MBA's concerns, as it stands, the improvements in this legislation do not offset the increased regulatory burden and costs to consumers that it will bring.

Sincerely,



John A. Courson
President and Chief Executive Officer



Robert E. Story, Jr.
Chairman