Mortgage Bankers Association's 2010 Agenda

Build a Strong, Stable Government Role in the Secondary Market (Congress)

- Create a new line of government-guaranteed mortgage-backed security (MBS).
- Establish private entities to provide loan-level guarantees of the underlying mortgages.
- Protect taxpayers through a narrow definition of mortgage products covered, adequate capital reserves at the private entities, strong regulatory oversight and a government insurance fund paid into by the private entities.

Ensure Future Viability of FHA (HUD and Congress)

- Limit FHA approval process to mortgagees (eliminating correspondent approval) as long as FHA provides lenders with guidance on minimum standards for correspondents.
- Increase net worth requirement for single family mortgagees to $2.5 million, phased in over five years.
- Establish separate net worth requirement for multifamily lenders at $500,000 plus one percent of annual originations (up to $1.5 million).
- Increase resources for staffing and technology.

Reform Regulation of Financial Services (Congress)

- Create uniform national lending standards and consolidated federal regulation by a new or existing prudential financial regulator.
- Improve risk retention proposals to avoid curtailing residential and commercial mortgage lending.
- Clarify the SAFE Act to eliminate duplicative state requirements that increase costs for consumers.

Assist Delinquent Borrowers (Administration)

- Create a standardized approach to helping unemployed borrowers by using forbearance as the first step in the HAMP process for borrowers with a temporary loss of income.
- Improve HAMP administration:
  + *Focus on conversions, refrain from endless incremental program changes.*
  + *Provide interest-only modification program for option ARM borrowers.*
  + *Establish a help line for servicers to request interpretations, exceptions, approvals or clarifications of underwriting requirements. Information / approvals exchanged with the servicer must be binding on the administration.*

Increase Loan Limits (Congress)

- Make permanent existing GSE and FHA loan limits.
- Increase FHA multifamily loan limits for elevator buildings.

Support Tax Incentives to Encourage Stabilization of Housing and Economic Growth (Congress)

- Preserve the mortgage interest deduction and expand its use to those who don't itemize.
- Oppose efforts to increase the tax rate on carried interest.

Preserve Current Bankruptcy Laws (Congress)

Support Equal Treatment of Covered Bonds with Other Qualified Financial Contracts (Congress and Agencies)

Urge Caution on Accounting Changes (SEC, FASB and IASB)

- Encourage FASB and IASB to converge their standards for financial instruments.
- Re-examine use of fair value accounting in occasions where it is having a pro-cyclical impact on the economy.

Promote Liquidity in Commercial Real Estate (Treasury, Federal Reserve and FDIC)

- Extend TALF Legacy and New Issue CMBS programs until December 31, 2011.
- Support Implementation of FDIC's Legacy Loan Program for small- and medium-size banks.
- Avoid unintended consequences of new REMIC rules that address permissible loan modifications.

01/12/10 9676

Mortgage Bankers Association's 2010 Legislative and Regulatory Priorities

By investing in communities the real estate finance industry has played a critical role in the American economy. The turmoil of the last couple of years in the industry has, however, threatened this critical responsibility. As the voice of the residential and commercial real estate finance industry, the Mortgage Bankers Association (MBA) will continue to work closely with the 111th Congress, the Obama administration and financial regulators to help restore confidence in our industry and restore stability to our nation's mortgage markets, allowing them to emerge from this time stronger, more resilient and better positioned to serve America's housing and commercial real estate needs for the future. While the policy issues before our industry are many and we will work on them all, our focus in 2010 will be on the following issues.

REFORM THE FINANCIAL REGULATORY SYSTEM

Financial Regulatory Reform Legislation

In March 2009, MBA released its own proposed bill to reform regulation of the mortgage industry, The Mortgage Improvement and Regulation Act (MIRA). We proposed new uniform national lending standards to replace the current patchwork of state and federal lending laws and a new federal regulator for independent mortgage bankers and mortgage brokers. We continue to advocate for the policies contained in MIRA as financial regulatory reform legislation continues to move through Congress this year.

MBA's priorities as the legislation advances include opposing the creation of the Consumer Financial Protection Agency (CFPA) and instead advocating for uniform national lending and servicing standards and consolidated federal regulation of mortgages by a new or existing prudential financial regulator. We support crucial changes to the proposed new risk retention requirements in order to avoid severely curtailing both residential and commercial lending and forcing many nondepository mortgage bankers out of business. We also support clarifications to the Secure and Fair Enforcement for Mortgage Licensing (SAFE) Act to eliminate duplicative state requirements, which are causing unreasonable and uneven costs — costs that are ultimately borne by consumers.

As Congress seeks to mitigate excessive risk taking in the asset securitization process, MBA will work to eliminate additional measures that would overburden the core of the market for lower risk mortgage products. MBA's proposal is to create a clear statutory exemption from the risk retention requirements for stable, affordable well-underwritten mortgages. We support the concept in legislation passed by the House last year (H.R. 1728) that addressed risk retention standards by creating a safe harbor for "qualified mortgages" that would be exempt from the risk retention requirements.

- Qualified mortgage products would be safe, traditional mortgage products that would enjoy ample liquidity in the primary market.
- Additional risk retention requirements would be targeted to the higher risk products that contributed to the housing market crisis.
- The provisions in the draft Senate bill, by contrast, take a one-size-fits-all approach with no recognition for the extreme variations in risk among asset classes. On the commercial side, MBA is proposing an exemption for commercial/multifamily real estate loans because these borrowers are businesses, not consumers.
- MBA's advocacy efforts will emphasize the more sensible, bipartisan securitization reform framework that was forged in H.R. 1728.

MBA remains supportive of financial services regulatory modernization generally, and mortgage reform specifically, but opposes aspects and proposals that are unnecessarily onerous, exacerbate the current problem of uneven regulation in the states or fail to ensure that mortgage financing remains widely available and affordable for American borrowers.

CONTINUE TO ASSIST BORROWERS

Help for the Unemployed

The primary driver for borrowers being unable to make their mortgage payments on time has shifted solidly to loss of income. The primary cause of that loss of income is unemployment or underemployment. Borrowers who have suffered such a temporary setback are often best served by forbearance from their mortgage payments while they seek employment. While forbearance is generally available as a tool to help borrowers today, MBA supports standardizing its use across the industry by integrating it as the first step in the Home Affordable Modification Program (HAMP) for borrowers experiencing a temporary loss of income. HAMP could be improved for certain borrowers by standard use of forbearance ahead of trial or permanent loan modification. MBA is working with other industry participants to propose this standardized approach to the Obama administration.

Improve HAMP

The Obama administration's Home Affordable Modification Program (HAMP) is an important tool for assisting borrowers who are having trouble making their mortgage payment in full and on time. The program's complexity and requirements, however, continue to hinder its effectiveness in providing quick and lasting help to borrowers. Furthermore, since April 2009, there have been nine major releases of new program requirements and over 90 clarifications, including new or revised forms, new and revised reporting changes and supplemental policy changes from the GSEs. These changes have required servicers to re-work processes, reprogram systems and retrain large numbers of employees, all of which take away from maximizing assistance to borrowers.

While less frequent changes in servicer requirements, as mentioned above, would help with HAMP effectiveness, there are some key enhancements that would allow the program to help more borrowers. In addition to the forbearance option outlined above, MBA supports establishing an interest-only modification option under HAMP. This would benefit borrowers with option adjustable rate mortgages (ARMs), which often have minimum payments that are lower than what they would be after HAMP modification. Some borrowers could better achieve affordability through an interest-only structure. MBA will continue to work with the administration on ways to enhance and improve HAMP and related programs while maximizing the use of servicer resources to assist borrowers.

RESTORE REAL ESTATE FINANCE MARKETS AND ENSURE THEIR FUTURE STRENGTH

Build a Strong Secondary Market

Since the creation of Fannie Mae in the 1930s, the federal government has played a key role providing stability to the secondary mortgage market. The current housing crisis has tested that role and led to calls for a fundamental rethinking of the appropriate government role. The long-term viability of the mortgage markets depends on the federal government putting in place a sound system for ensuring liquidity for financing the core of the residential mortgage market in America. MBA has developed a set of recommendations on how this should be accomplished.

The centerpiece of our recommendations on federal support for the secondary mortgage market is to create a new type of mortgage-backed security (MBS). Each new security would have two components. First, a security-level, federal government-guaranteed "wrap" similar to that on a Ginnie Mae security. The government backstop, financed in a similar way to the Federal Deposit Insurance Corporation (FDIC) insurance fund, would be explicit and focused on the credit risk of these mortgage securities. Second, the security would be backed by loan-level guarantees provided by privately-owned, government-chartered and regulated mortgage credit guarantor entities (MCGEs). The infrastructures of Fannie Mae and Freddie Mac, including their technology, human capital, standard documents and existing relationships, would be used as a foundation for one or more MCGEs. A strong federal regulator would oversee the MCGEs and would charter new MCGEs to provide for competition in the market. MCGEs would stick to securitizing standard loan products for single family and multifamily housing, and there would remain plenty of room in the market for the return of private label securities

and government programs such as the Federal Housing Administration (FHA), the Department of Veterans Affairs (VA) and rural housing lending.

We also cannot lose sight of the importance of a smooth transition to the new structure, ensuring the continued viability of Fannie Mae and Freddie Mac and their support for the housing markets in the short term.

Ensure the Future Viability of the Federal Housing Administration (FHA)

Given the results of the actuarial report on the FHA Mutual Mortgage Insurance (MMI) Fund last year that showed a dramatic decrease in the FHA capital fund to 0.53 percent, MBA has focused on recommending strategies for enhancing FHA's risk management and ensuring the health of the agency for the long term. We have convened an executive-level council of small and large lenders to make short- and long-term recommendations.

MBA believes that FHA should evaluate, and modify where appropriate, its credit policies and other standards and procedures for single family and multifamily insurance programs to ensure that it can continue to provide stability, liquidity and affordability to the housing market during this difficult time in housing finance and ensure its future viability. FHA should also be given appropriate resources and flexibility to administer its programs effectively.

In support of these goals, MBA supports short-term changes including:

1. Limiting the FHA approval process to mortgagees (eliminating correspondent approval), as long as FHA provides lenders with guidance on minimum standards for correspondents;

2. Increasing the net worth requirements for single family FHA-approved mortgagees to $2.5 million over a five-year phase-in period; and

3. Establishing a separate net worth requirement for FHA-approved multifamily mortgagees at $500,000 plus one percent of annual origination volume up to $1.5 million.

MBA also supports FHA efforts to improve its single family programs by reevaluating credit and underwriting standards, reexamining the insurance premium structure and enhancing consumer and lender protections for Home Equity Conversion Mortgages (HECMs). Additionally, MBA continues to advocate for increased staffing and technology resources for FHA as well as greater flexibility in FHA's hiring and compensation practices. These changes are needed to facilitate the short- and long-term health and effectiveness of FHA's single family and multifamily programs.

MBA plans to make additional recommendations to Congress and the administration regarding FHA over the coming months.

Tax Incentives Should Encourage Housing Stabilization and Economic Growth

MBA supports policies that encourage housing market recovery, job creation and economic growth. Specifically, MBA seeks to preserve and improve the mortgage interest deduction for borrowers. The deduction should be maintained at its current level and made available to taxpayers who claim a standard deduction, not just those who itemize their deductions.
In general, MBA will support tax reforms that incentivize homeownership and commercial real estate investment, promote affordable housing finance, encourage investment and expansion of business to create new jobs and sustain economic growth in America. In addition, MBA opposes tax increases for certain real estate partnerships that would provide a disincentive for residential and commercial development.

Make Higher Loan Limits Permanent

In this time of market turmoil, it is important for Fannie Mae and Freddie Mac to provide secondary market support to the broadest spectrum of home prices possible. Therefore, MBA urges Congress to set the government-sponsored enterprises' (GSEs) standard conforming loan limit to $625,500 and up to $729,750 in high-cost areas on a permanent basis. MBA also requests Congress to set the FHA loan limits at $625,500, and $729,750 in high-cost areas on a permanent basis. This change will enable the GSEs and FHA to boost the availability of housing finance funding to the broadest spectrum of borrowers possible. Making the higher loan limits permanent, rather than subject to annual action by Congress, will also spur the investment community to lift its requirement that loan pools contain no more than ten percent of high balance loans, further reducing borrowing costs.

Additionally, FHA multifamily programs are being negatively impacted in many urban areas due to unnecessarily low mortgage limits for elevator buildings. These limits should be

increased to recognize the significantly higher costs of high-rise construction. This change would encourage the production and preservation of workforce and seniors' housing in urban areas.

Preserve Current Bankruptcy Laws

Current bankruptcy laws were intended to help keep mortgage interest rates low by prohibiting bankruptcy judges from altering the terms of most residential mortgage contracts during Chapter 13 bankruptcy proceedings. Overturning these laws to allow bankruptcy judges to unilaterally "cramdown" mortgages would draw more families into bankruptcy and make it harder and more expensive for all Americans to obtain mortgages by forcing lenders to impose tougher lending standards, requiring larger down payments and raising interest rates.

Support Covered Bonds

MBA supports legislation and regulation to provide for equal treatment of covered bonds with other qualified financial contracts. Covered bonds are debt securities backed by cash flows from mortgages that remain on the issuer's consolidated balance sheet. Covered bonds provide an additional source of liquidity for residential and commercial real estate financing. Although covered bond transactions are not currently in widespread use, prospective revisions to accounting regulations and an improvement in market spreads could provide further incentive for their increased use. In short, MBA believes covered bonds represent one of the most affordable wholesale funding instruments for financial institution asset-liability management.

Proceed with Caution on Accounting Changes

As a result of the G20 summit in April 2009, the Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) undertook a project to amend and converge accounting standards for financial instruments by the end of 2011. Such accounting standards encompass classification and measurement of financial instruments, fair value accounting principles, hedge accounting, accounting for impairment, de-recognition of financial instruments and consolidation of variable interest entities (VIEs). Since then, FASB and IASB have continued to work on revising their own respective standards instead of meeting jointly to "do it once and do it right." FASB and IASB should work together to come up with converged, sound accounting principles for financial instruments. Those principles should be written so that the accounting accurately reflects the way the respective assets and liabilities are managed. Converged accounting principles will enable comparability of financial statements of financial institutions worldwide and prevent "accounting arbitrage."

Use of fair value accounting continues to have a pro-cyclical impact on the economy as market participants write down assets valued at fair value to prices of distressed sales in an inactive market. Although FASB has made some incremental changes to its guidance for measuring fair value in an inactive market, the guidance remains flawed. The requirement for use of a "liquidity risk factor" in determining discount rates used to model future cash flows needs to be eliminated. It is "circular" and leads to marking assets to distressed sale values.

These accounting issues are important to MBA members engaged in both residential and commercial real estate lending.

PROMOTE LIQUIDITY DURING DISRUPTION OF THE COMMERCIAL REAL ESTATE MARKET

Extend TALF Legacy and New Issue CMBS Programs

In July 2009, the Term Asset-Backed Loan Facility (TALF) program was expanded to include super senior AAA commercial mortgage-backed securities (CMBS) that were issued prior to 2009 (legacy CMBS). Because the TALF program has been successful in restarting the CMBS market, we support the continuation of this program until December 31, 2011, at which point we anticipate the CMBS market will have recovered sufficiently to no longer warrant government support. A robust CMBS market will create greater liquidity for the commercial real estate finance market.

FDIC Legacy Loan Program

The FDIC has implemented its Legacy Loan Program. However, in early 2010, the FDIC plans to expand this program to loans from performing banks. The program is anticipated to start in the first quarter of 2010 and is expected to target small to medium-size banks. This program is anticipated to increase bank commercial real estate lending activity because banks will have the ability to sell existing loans which will in turn provide the capacity to make new commercial loans.

REMIC

In addition, last year, the Internal Revenue Service released final rules that addressed permissible loan modifications for loans that are contributed to a Real Estate Investment Mortgage Investment Conduits (REMIC). MBA participated in a group letter submitted to the Treasury Department recommending modifications to the final rule that would avoid unintended consequences and boost investor confidence in commercial mortgage-backed securities (CMBS).

The Mortgage Bankers Association looks forward to working with Congress, the Obama administration and financial regulators to help restore confidence in our industry and restore stability to our country's mortgage markets, allowing them to serve our residential and commercial real estate needs for the future.

1331 L Street, NW
Washington, DC 20005
www.mortgagebankers.org

01/12/10 9676