



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

November 5, 2007

Re: H.R. 3915, The Mortgage Reform and Anti-Predatory Lending Act of 2007

Dear Chairman Frank:

We appreciate your efforts and the efforts of your staff, Congressman Bachus and his staff, and all those who have worked on this far-reaching legislation. We understand it is intended to address many of the issues that have arisen in today's mortgage lending market. In particular, we appreciate the fact that you have recognized the importance of a system of licensing for mortgage brokers. However, we continue to be concerned about the possibility of unintended consequences. As such, we wish to share our views on HR 3915, as amended by the Manager's Amendment.

Our two biggest concerns with the bill are regarding the need for uniform national rules, and the imposition of new rules that will impose suitability requirements on lenders.

The bill's liability provisions that apply to assignees and securitizers supersede state laws that provide similar coverage; however, the bill has no such provision for the creditor. Major new requirements in the bill, imposing a federal duty of care, anti-steering, ability-to-repay and net-tangible-benefit requirements, all supplemented by considerable disclosure and reporting requirements and enforced with new penalties and rescission—in short, an entire reinvention of mortgage lending regulation—are being developed without any similar protection for lenders from miscellaneous conflicting state laws.

We believe uniformity in origination and underwriting is vital. It streamlines the process of mortgage lending and reduces the burden of having to comply with myriad rules, all

slightly different. The consumer benefits by the reduced costs that are associated with efficiency, and by the ability to compare information and rules that are offered in a uniform and consistent manner.

The bill also contains several provisions and prohibitions that are couched in subjective terms and even imposes new “suitability” expectations. For example, the bill requires that the creditor diligently work to find loans that are “appropriate to the consumer’s circumstances.” This is something bank loan officers strive to do as a regular matter, but the potential for liability should they fail to do so to the standard developed by regulation renders it inappropriate as a legislative prescription. Similarly, the bill mandates additional rules that will require subjective determination by regulators and creditors.

We have other concerns with the bill as well. We would be pleased to share all our concerns with you or your staff. We share your desire for a strong and effective regime to oversee mortgage lending, and we appreciate your efforts on behalf of the industry and consumers.

Very truly yours,

Steven I. Zeisel
Vice President