Testimony of David G. Kittle, CMB

Chairman

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Before the

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Committee on Financial Services

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Hearing on

"The Current State of the American Mortgage Lending System and Proposals to Reform that System"

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Chairman Gutierrez, Ranking Member Hensarling and Members of the Subcommittee, my name is David G. Kittle, CMB, and I am Chairman of the Mortgage Bankers Association[1] as well as Executive Vice President of Vision Mortgage Capital, LLC. I appreciate the opportunity to testify on proposals to reform mortgage lending.

After all that has transpired since the House of Representatives passed H.R. 3915, the "Mortgage Reform and Anti-Predatory Lending Act of 2007," we believe that we need a fundamental reform of mortgage regulation. That reform should take into account not only the many problems exposed since the end of 2007, but also the many legal and regulatory changes that have occurred since then.

In July of 2008, the Federal Reserve Board undertook a careful review of the mortgage process. The Board then finalized comprehensive rules addressing the central issues in H.R. 3915. These rules, which go into effect on October 1, 2009, include greater protections for subprime borrowers with new requirements for underwriting (ability to repay/documentation), escrows and prepayment penalties. The rules also address appraiser coercion and abuses in mortgage servicing and advertising. MBA believes that the Board's rules, coupled with other important requirements, should serve as the basis for a uniform national standard to protect consumers.

As you know, many domestic regulatory agencies, as well as the G-20 nations, have been working on regulatory reform proposals. MBA has been studying and learning from these proposals and we believe that a comprehensive package would be most effective.

At the same time, we have been developing our own policy approach to mortgage reform. We believe that, while the mortgage industry is not the sole cause of today's difficulties, our industry must be central to solutions that restore faith in the market and protect future borrowers. We know that these proposals will constrain some in our industry, but they will also help our members and their customers in the long-run.

MBA is working to complete our comprehensive proposal for reform and we plan to announce it shortly. In the meantime, we are able to share the principles embodied in that proposal.

1). Reform proposals directed to the mortgage lending industry should be considered in a comprehensive, not piecemeal, manner. Issues, including the type of regulatory structure, the respective roles of federal and state agencies, which rules should

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,400 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.

apply and how enforcement should be carried out, should be considered carefully to achieve the optimal overall approach.

2). Mortgage lending deserves special attention. While consumer protection, systemic risk and safety and soundness all deserve attention, MBA believes special attention to mortgage lending is warranted.

3). Reform legislation should provide a rigorous new regulatory standard that should protect consumers regardless of where they live. Just as emergency efforts to return credit to the market have been national in scope, long-term solutions to mortgage lending challenges must also be national. Federal and state officials should work together in developing and enforcing uniform standards.

4). A new standard should build on recent work. MBA believes a new standard should start with the Federal Reserve's Home Ownership and Equity Protection Act (HOEPA) rules, proposals from H.R. 3915, new transparency provisions to conform the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) disclosures and MBA's initiatives, such as proposals to define originator responsibilities.

5). A single set of consumer protection rules should be dynamic and able to quickly respond to new concerns. Federal and state officials should work together to revise the national standard to address new abuses and concerns. Regulators should be authorized to make necessary changes through a public rule-making process.

6). Standards, including assignee liability restrictions, must be clearly defined to facilitate the flow of affordable capital into the mortgage market.

7). Regulated entities should pay the costs of regulation and enforcement at the federal and state level. MBA favors effective regulation and enforcement, and believes that regulated entities should pay the costs to assure sufficient funding (as long as charges are reasonable and not duplicative).

8). All players in the mortgage industry should be subject to consistent federal regulation including rigorous licensing, education requirements, net worth and bonding requirements as well as regular review and examination.

9). Regulatory reform must improve transparency for borrowers. Consumer disclosures are governed by TILA and RESPA, but the Federal Reserve Board's and HUD's disclosure changes have not been compatible. Reform must address this problem to ensure that consumers have optimal information to understand loan transactions.

10). Regulatory reform should also assure better resources for counseling, financial literacy and fighting mortgage fraud. MBA supports mandatory counseling for some products if adequate resources are available.

We look forward to providing the details of our proposals shortly and working with this Subcommittee and the Congress to achieve efficient and effective regulatory reform going forward.