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MORTGAGE BANKERS ASSOCIATION

May 16, 2024

The Honorable Patrick McHenry  
Chairman  
Committee on Financial Services  
U.S. House of Representatives  
2129 Rayburn House Office Building  
Washington, D.C. 20510

The Honorable Maxine Waters  
Ranking Member  
Committee on Financial Services  
U.S. House of Representatives  
2221 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chairman McHenry and Ranking Member Waters:

On behalf of the Mortgage Bankers Association (MBA)<sup>1</sup>, I am writing to share our association's views regarding several bills that directly impact the real estate finance system and are scheduled for markup today by the full Financial Services Committee, as follows:

**H.R. 758, the *Promoting Access to Capital in Underbanked Communities Act (Barr)***

**Background**

MBA has always supported any opportunity to expand access to banking activities and services – including mortgage-related services – to all communities, including rural and underserved communities. As such, we support this bill that would encourage the establishment of *de novo* financial institutions, which, in turn, support the important goal of increasing banking options and competition to better serve families, small businesses, and local communities.

MBA also supports the lowering of the Community Bank Leverage Ratio (CBLR) for all community banks, as these institutions continue to serve a unique and important purpose within the U.S. financial and economic system.

**MBA Recommendation on H.R. 758: Vote “Aye”**

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<sup>1</sup> The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 275,000 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 to 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 more than 2,000 companies includes all elements of real estate finance: independent mortgage banks, mortgage brokers, commercial banks, thrifts, REITs, Wall Street conduits, life insurance companies, credit unions, and others in the mortgage lending field. For additional information, visit MBA's website: [www.mba.org](http://www.mba.org).

## **H.R. 3161, the *CDFI Fund Transparency Act (Rose)***

### **Background**

In recent years, the Community Development Financial Institutions (CDFI) Fund has played an increasingly significant role ensuring that access to credit and capital – including, in certain instances, mortgage credit – is available to communities throughout the U.S.

Given that growing role, MBA supports the transparency that would be provided through this bipartisan bill's requirement that the Director of the CDFI Fund be compelled to testify annually before the House Financial Services and Senate Banking Committees.

### **MBA Recommendation on H.R. 3161: Vote “Aye”**

## **H.R. 8338, the *Clarity in Lending Act (Kim)***

**Title II (H.R. 6789), the *Rectifying Undefined Descriptions of Abusive Acts and Practices Act (Barr)*, Title III (H.R. 1806), the *Small LENDER Act (Hill)*, and Title IV (H.R. 1810), the *Bank Loan Privacy Act (Leutkemeyer)***

### **Background on Title II**

MBA's members are supportive of attempts to clarify the Consumer Financial Protection Bureau's (CFPB) abusiveness authority to ensure it targets particular conduct, that liability is able to be understood and avoided by responsible actors, and that it does not serve a “catch-all” theory for unwarranted enforcement actions. Abusiveness was created as a standard by Congress to cover defined conduct – and the bill's efforts to clarify that standard are very helpful to both regulators and regulated entities.

H.R. 6789 (now Title II of H.R. 8338) addresses many of the current issues regarding the usage and lack of clarity around the statutory definition of abusiveness. However, as the bill progresses, to further improve the appropriate usage of the abusiveness standard MBA would recommend inclusion of an explicit harm requirement, as well as ensuring that any lack of consumer understanding is known or intended by the covered person or service provider.

### **Background on Titles III & IV**

On March 30, 2023, the CFPB released its small business loan reporting final rule that implements Section 1071 of the Dodd-Frank Act. When implementation moves forward, the rule's requirements will significantly burden commercial lenders. Under the final rule, lenders who originate at least 100 small business loans in each of the preceding two calendar years are required to report certain demographic information. According to the final rule, a small business has gross revenue of \$5 million or less in its most recent fiscal year.

Accordingly, MBA supports efforts, including raising thresholds and lowering revenue requirements, which help limit the applicability of 1071 to commercial real estate. MBA urged the CFPB to limit the rule's scope, including an overall exemption for loans to finance income-producing investment properties in the final rule, but the Bureau failed to do so. It is well recognized that investment property lending is a category of lending distinct from small business lending.

**MBA Recommendation on H.R. 8338: Vote “Aye”**

**H.R. 3507, the *Yes in My Backyard (YIMBY) Act* (Kilmer/Flood)**

**Background**

By requiring Community Development Block Grant (CDBG) recipients to focus on local zoning and regulatory barriers to the creation of affordable housing, and report periodically on the extent to which they are removing discriminatory land use policies, this bipartisan bill will provide clarity that encourages more thoughtful and inclusive development practices.

Housing affordability is a national problem – and the *YIMBY Act* is a key step forward in the effort to help mitigate this crisis within individual markets throughout the country.

**MBA Recommendation on H.R. 3507: Vote “Aye”**

**Conclusion**

Thank you in advance for your consideration of the views expressed within this letter.

As always, MBA stands ready to collaborate with the Committee to help advance these measures and ensure a robust real estate finance market – one that is accessible, affordable, and works best for all borrowers, renters, end users, and lenders.

Sincerely,



Bill Killmer  
Senior Vice President  
Legislative & Political Affairs

cc: All Members, House Committee on Financial Services