



MORTGAGE BANKERS ASSOCIATION

April 17, 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)¹, I am writing to share our association's views regarding one resolution and two bills that impact the real estate finance system and are scheduled for markup later today by the full Financial Services Committee, as follows:

H.J. Res. 120, a resolution "providing for congressional disapproval under chapter 8 of title 5, United States Code, of the rule submitted by the Financial Stability Oversight Council (FSOC) relating to "Guidance on Non-Bank Financial Company Determinations" (Hill)

Background

This resolution would disapprove the rule submitted by the Financial Stability Oversight Council (FSOC) in relation to "Guidance on Non-Bank Financial Company Determinations." The Dodd-Frank Act (DFA) allows FSOC to determine if a nonbank financial company poses a systemic risk to the U.S. financial system and should therefore be designated as a "Systemically Important Financial Institution" (SIFI).

With respect to the DFA authorities regarding nonbank SIFI designations, MBA strongly supports FSOC's goal to ensure healthy and stable financial markets. However, as outlined in our comment letter dated July 17, 2023, on the rule in question, MBA recommended that FSOC incorporate several improvements to the proposal, as follows: (1) the need to fully include consideration of the costs and benefits of non-bank SIFI designation; (2) when assessing systemic risk, the need to consider and address whether existing regulations are driving core banking activities outside the banking regulatory perimeter; (3) before proceeding with a

¹ 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.

designation, the need to look first to the tools of existing regulatory entities and other federal programs/agencies; and, (4) in pursuing designation, the need to fully adhere to statutory process requirements.

Moreover, in proceeding with a non-bank SIFI designation, MBA believes that FSOC should be compelled to conduct a deep and thorough analysis, including weighing the cost and benefit of such a designation to the U.S. financial system as a whole – and the likelihood the financial company in question will experience material financial distress as a result of the designation.

MBA Recommendation: Vote “Aye”

Given the failure of the rule to incorporate these suggested improvements and considerations, MBA supports H.J. Res. 120 and recommends an “aye” vote to provide congressional disapproval of the rule submitted by the Financial Stability Oversight Council (FSOC) relating to “Guidance on Non-Bank Financial Company Determinations.”

H.R. 5535, the *Insurance Data Protection Act* (Fitzgerald)

Background

This legislation would prohibit the Federal Insurance Office of the Department of the Treasury and other financial regulators from collecting data directly from an insurance company.

As drafted, the bill will eliminate the subpoena power of the Federal Insurance Office, limit the subpoena power of the Office of Financial Research, and limit the ability of federal regulators to obtain data directly from an insurance company.

MBA Recommendation: Vote “Aye”

MBA supports H.R. 5535 in its current form and recommends an “aye” vote. The legislation, as written, would protect consumer data, preserve the role of the states as the primary regulator of the insurance business, and reduce administrative costs for our association’s life insurance company members involved in commercial real estate finance activities.

H.R. 802, the *Respect State Housing Laws Act* (Loudermilk)

Background

This bill eliminates a provision from the *CARES Act* that requires a 30-day notice period before a landlord may begin eviction proceedings against a tenant in federally assisted or federally backed housing. In 2020, the *CARES Act* implemented a 30-day notice to vacate requirement due to a non-payment of rent for landlords operating properties that are subject to a government program, such as Section 8 housing, Low-Income Housing Tax Credit projects, or projects subject to loans guaranteed by Fannie Mae, Freddie Mac, FHA, or USDA.

MBA Letter
House Financial Services Committee Markup
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MBA Recommendation: Vote “Aye”

MBA supports H.R. 802 in its current form and recommends an “aye” vote. The 30-day notice requirement was meant to be temporary, creates an unnecessary federal interference under state law, and has subjected housing operators to significant operational hurdles and financial strain.

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 to ensure a robust real estate finance market – one that is accessible, affordable, and works best for all borrowers, renters, end users, and lenders.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bill Killmer', with a long horizontal flourish extending to the right.

Bill Killmer
Senior Vice President
Legislative & Political Affairs

cc: All Members, House Committee on Financial Services