MBA®

MORTGAGE BANKERS ASSOCIATION

November 6, 2017

The Honorable Kevin Brady
Chairman
House Committee on Ways and Means
1102 Longworth House Office Building
Washington, D.C. 20515

The Honorable Richard Neal
Ranking Member
House Committee on Ways and Means
1139E Longworth House Office Building
Washington, D.C. 20515

Dear Chairman Brady and Ranking Member Neal:

On behalf of the Mortgage Bankers Association (MBA), I wish to offer the real estate finance industry's comments on the most recently released text of H.R. 1, *The Tax Cuts and Jobs Act.* MBA strongly supports the goal of enacting tax reform that spurs jobs and economic growth, and the introduction of this bill is an important milestone along that road.

However, we do have strong concerns about how certain provisions of the bill will impact housing and real estate markets around the country. In particular, we believe the proposed changes to the mortgage interest deduction (MID), deductibility of state and local real estate taxes and the exemption for capital gains treatment when families sell their principal residence would have a negative impact on individual housing markets – and potentially the national economy. We are also concerned about the bill's potential impact on the production of affordable housing.

Although H.R. 1 would provide both owners and renters with more take home pay by lowering overall tax rates and nearly doubling the standard deduction, we believe the cumulative impact of the changes to the MID and property tax deductibility would erode homeownership incentives for too many Americans. The proposed $500,000 cap on post-November 2, 2017 acquisition indebtedness for MID, elimination of deductibility of interest on home equity loans, and limitations on the deductibility of state and local taxes ($10,000 cap on property taxes) will negatively impact homeowners and prospective buyers in individual housing markets around the country. *Consequently, we believe Congress should take this historic opportunity to think creatively about new homeownership incentives targeted more efficiently to low- to moderate-income borrowers – such as the proposed 12% homeownership tax credit based on qualified mortgage interest plus property tax.*

The bill also makes significant changes to the portion of the tax code that allows homeowners to exclude a portion of the gains on the sale of a home. We believe the longer hold period for the capital gains rollover will depress mobility and job flexibility for Americans contemplating a move from one housing market to another. The extended hold period will also act as a disincentive for many homeowners to move up, and for older homeowners to move down, further exacerbating the current lack of housing supply that has made it even more difficult for younger buyers to move into homeownership. We would strongly urge retention of the current law provision in this area.

While we would urge these concerns to be addressed as the bill moves forward, MBA supports numerous other provisions of H.R. 1. For example, MBA is pleased that the bill preserves business interest deductibility for real estate as well as Section 1031 like-kind exchanges for real property. Continued deductibility of business interest for real estate will ensure that the cost of financing remains affordable and real estate activity remains a vibrant portion of the economy, and the current utilization of Section 1031 provides benefits that help to promote ongoing investment patterns within local real estate markets, which, in turn, is fundamental to economic growth.

We are also pleased that the bill maintains the Low Income Housing Tax Credit (LIHTC), as preserving this program will continue to incentivize the use of private equity in the development of the majority of affordable housing units for low- to moderate-income American families. However, the elimination of the tax-exempt status for Private Activity Bonds (and, in effect, the 4 percent LIHTC) will have a significant detrimental impact on the development of affordable multifamily housing, as well as on access to affordable mortgage credit. We believe provisions that would negatively impact affordable housing should be excluded from the bill.

Finally, with respect to new, lower tax rates for pass through entities, we would recommend language that clarifies the definition of “personal services” companies for purposes of determining businesses that would be excluded from the application of the 25% business income tax rate for pass through entities. Many of our member firms are structured as pass throughs, and we would request more explicit clarification that mortgage banking companies organized as such are excluded from this definition.

We recognize this bill is the first step in a lengthier discussion between the House, Senate and the administration on tax reform. We therefore look forward to continuing to work with policymakers to find the right balance that both reduces the tax burden on American families and spurs economic growth, without posing unnecessary risk to the housing and real estate markets. We stand ready to work with you to ensure that Americans, whether they own or rent, continue to have access to affordable and sustainable housing.

Sincerely,

David H. Stevens, CMB
President and Chief Executive Officer

cc: The Honorable Paul Ryan, Speaker of the House
The Honorable Nancy Pelosi, Minority Leader
All Members, House Committee on Ways and Means