MORTGAGE BANKERS ASSOCIATION

April 20, 2021

The Honorable Maxine Waters
Chairwoman
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20510

The Honorable Patrick McHenry
Ranking Member
Committee on Financial Services
U.S. House of Representatives
4340 O'Neill House Office Building
Washington, D.C. 20024

Dear Chairwoman Waters and Ranking Member McHenry:

On behalf of the Mortgage Bankers Association (MBA)[1], I am writing to express our views on several real estate finance-related bills scheduled to be considered for markup by the Committee on Financial Services on April 20, 2021.

H.R. 2547, the "Comprehensive Debt Collection Improvement Act"

Title VIII – Non-Judicial Foreclosure Debt Collection Clarification Act

Our country's mortgage lending system – a critical element of our national policy of making home ownership available to as many Americans as possible – continues to rest on the foundation of enforceable security interests in real property. By allowing lenders to take possession of collateral through foreclosure when a borrower defaults, the law reduces the risk to lenders – which in turn allows them to make credit available to more home buyers at a much lower interest rate than available for unsecured credit. More than half of the States have designed their legal systems to provide for non-judicial foreclosures, which maintain significant state and federal procedural protections for borrowers while streamlining the foreclosure process. The entire purpose of non-judicial foreclosure is to avoid the costs and delay of litigation, which inevitably would result from judicial involvement in the foreclosure process. This process also appropriately balances the needs of individuals through robust procedural protections and the benefits to communities of limiting blight or opening new home ownership opportunities.

In March of 2019, the Supreme Court of the United States (SCOTUS) unanimously held in *Obduskey V. McCarthy and Holthus LLP* that a business engaged in non-judicial foreclosure proceedings is not a "debt collector" under the FDCPA. MBA supports the unanimous SCOTUS

[1] The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 330,000 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 over 1,700 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.

ruling, and opposes any legislation designed to overturn the decision. Such an outcome would disrupt the choices states have made in structuring their foreclosure regimes, imposing unnecessary costs and delay to the enforcement of real property interests and subsequently the cost of credit.

H.R. 2553, the "Real Estate Valuation Fairness and Improvement Act of 2021"

MBA agrees with this bill's premise that more residential appraisers are leaving the industry rather than joining, with the average age of an appraiser currently around 58 years old. There is no question that the profession is in dire need of change to survive into the next generation. A shortage of appraisers is currently felt in many rural, lower income, and predominantly minority areas, and in the coming years this shortage threatens to spread into new markets and become far more severe in existing markets. For MBA members, a decline in the number of appraisers may mean a decline in appraisal quality, an increase in appraisal-related costs passed on to consumers, less than equitable valuations, and longer "turn-times" in the loan origination process.

Consequently, MBA supports the intent of this legislation to broaden participation in the appraisal industry as well as to ensure a fair and transparent appraisal process. Additionally, for the bill's proposed Real Estate Valuation Task Force to achieve its intended objectives, broader lender participation is required to ensure that lenders representing the diverse sizes, business models, and market segments (single family, multifamily, and commercial) all have input.

H.R. 1277, the "Improving Corporate Governance Through Diversity Act"

MBA supports the Amendment in the Nature of a Substitute (ANS) to H.R. 1277, as currently drafted, which would establish an advisory group to increase the diversity of Boards for publicly traded companies. Diversity at all levels for private sector entities has been increasing in recent years. Ensuring that decision makers and executives have access to diverse perspectives and opinions increases overall efficiency and improves performance and results.

H.R. 2123, the "Diversity and Inclusion Data Accountability and Transparency Act"

MBA commends this bill's intent to ensure a more diverse and inclusive work force in the financial services sector. Section 342 of the Dodd-Frank Act (DFA) required various federal regulatory agencies to establish Offices of Minority and Women Inclusion (OMWI). A major function of the OMWIs is to increase diversity at financial institutions and their regulators, and while much work remains to be done, the industry is committed to continuing these important efforts. MBA welcomes the opportunity to provide ongoing input to this proposal to ensure that additional mandatory reporting requirements are instituted in a manner that achieves the intended effect of building more diversity without imposing additional punitive regulatory burdens.

Resolutions Authorizing the Task Force on Financial Technology and the Task Force on Artificial Intelligence

MBA supports the Committee's efforts to reauthorize the Task Forces on Financial Technology and Artificial Intelligence. Technological advancements in the financial services sector have developed at a rapid pace. These developments present new opportunities for consumers, businesses, and lenders, but also call for additional discussion to ensure the regulatory structure provides the necessary protections and transparency for functioning markets.

Conclusion

Thank you in advance for your consideration of the views expressed within this letter. We stand ready to work with all Members of the Committee to ensure a robust real estate finance market that is accessible and affordable – and works for all borrowers, renters, end users, and lenders.

Sincerely,

Bill Killmer
Senior Vice President
Legislative and Political Affairs

cc: All Members, Committee on Financial Services