July 23, 2013

The Honorable Jeb Hensarling
Chairman, Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairman Hensarling:

On behalf of the Mortgage Bankers Association, I am writing regarding the housing finance legislation the Financial Services Committee will consider this week. Upon its introduction, MBA commended you for offering your discussion draft aimed at addressing our nation's housing finance system. I also appreciated the opportunity to testify before your committee to share our members' concerns regarding the legislation. As you rightfully noted during the hearing, while we may not always agree on our approaches to reform, the views of our industry – which constitutes the practitioners who originate and securitize mortgages on a daily basis – are vital to designing a successful new framework for housing finance.

Over the course of the past year, MBA re-convened our members in two task forces – for both the single-family and multifamily housing markets – to discuss the future of the secondary market and examine the broad range of issues that will be crucial to the debate on housing finance reform. Our members identified several key principles necessary for a successful secondary market. In particular, any new structure should rely primarily on private capital, but must also provide liquidity throughout economic cycles, with some required level of explicit government backstop. Additionally, the new structure should support the availability of traditional long-term, fixed-rate mortgage products with the ability to lock interest rates efficiently and at a low cost. Finally, there must be robust competition – supporting multiple business models – in both the primary and secondary mortgage markets.

MBA is pleased with many of the improvements to the Dodd-Frank Act contained in the discussion draft. The proposal contains the provisions of H.R. 1077, the Consumer Mortgage Choice Act, which would amend the way "points and fees" are calculated for purposes of determining eligibility to be a Qualified Mortgage. The discussion draft also contains a prohibition on Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) purchasing or insuring mortgages in jurisdictions that use the power of eminent domain to seize underwater mortgages. MBA also supports: providing an additional year for the industry to comply with the CFPB's Ability to Repay rule; the repeal of Dodd-Frank's risk retention requirements and premium capture cash reserve account, both of which would result in mortgage credit becoming more costly and less available; and the delay in enactment of the Basel III regulations.

MBA continues to be concerned with the overall scope of the changes being proposed for FHA. We wholeheartedly share the goal of strengthening the fiscal solvency of FHA's single-family programs and protecting taxpayers from future losses. We would note, however, that each policy choice carries with it the very real potential of reducing affordable credit options for many otherwise qualified borrowers. We urge the committee to carefully examine these changes in order to ensure a proper balance between strengthening FHA's fiscal solvency and maintaining the flexible standards necessary to allow homeownership opportunities to marginal borrowers.

Among its provisions, the PATH Act would reduce FHA's mortgage insurance coverage from 100 percent to 50 percent. Such a change could reduce the number of lenders willing to participate in FHA, decreasing competition and increasing costs for consumers. Furthermore, lowering insurance coverage would necessitate that Ginnie Mae increase its guarantee fees – in other words, reducing FHA's guarantee would simply move risk from one government entity to another.

MBA is pleased to see that the PATH Act contains indemnification provisions that protect consumers while providing lenders with certainty and a mechanism for arbitrating disputes. The bill permits FHA to require a lender to indemnify a loan if a lender knew or should have known of a serious and material violation. However, we strongly oppose the section requiring lenders to automatically repurchase an FHA loan that is more than 60 days past due in the first two years of the mortgage. This provision would drastically reduce the number of lenders who offer FHA-insured loans and force lenders to add substantial credit overlays on top of FHA's requirements.

With respect to loan limits, MBA supported temporarily raising loan limits for FHA and the GSEs at the height of the financial crisis and continued to support temporary extensions of those limits because mortgage credit remained tight. Now, however, we are beginning to see signs of private capital returning to the mortgage markets. MBA believes that if the high-cost loan limits are permitted to expire, the private sector will be prepared to fill this end of the market.

MBA has concerns, however, that lowering FHA's nationwide "floor" – the loan limit for portions of the country that are not high-cost areas – to $200,000, would have a dramatic impact on the number of borrowers who would be eligible for these loans. Currently, FHA's loan limit for much of the country is $271,050. The average size of an FHA-insured loan in January 2013 was $185,353. Lowering the floor to $200,000 would greatly limit mortgage financing options to the average FHA borrower and could harm the housing recovery in areas of the country where FHA lending is most needed.

The PATH Act would also raise the capital reserve ratio for FHA's single-family programs from two percent to four percent and require FHA to nearly triple its downpayment requirements if the ratio falls below that level. While the higher capital reserve ratio may be prudent, we oppose automatically tying downpayment requirements to the performance of the FHA fund. Doing so will do nothing to improve the performance of a book of business already made. It will, however, prevent FHA from making new loans just when it needs to strengthen its portfolio.

For multifamily housing, the PATH Act would introduce new, to-be-established affordability limitations for all FHA-insured multifamily loans. MBA notes that multifamily rental housing, in general, already provide affordable housing, with 93 percent of all multifamily units having rents affordable to households earning area median incomes or less. Because FHA is an insurance fund, some diversification is beneficial. Additional government restrictions could be counter-productive during market cycles when FHA's role in providing stability and liquidity is critical. In addition, FHA has strengthened multifamily underwriting requirements, boosted mortgage insurance premiums and published data demonstrating its portfolio performance has been strong. In this regard, we have concerns over an additional capital reserve for multifamily programs.

We recognize this bill is a starting point for this long overdue debate, and we appreciate the revisions to the discussion draft you have incorporated following last week's hearing. Further changes will be necessary before MBA can support its passage. We have consistently stated, and I reiterated in my testimony last week, that one of our key principles is that a federal backstop must be a part of any future secondary market system. We have also outlined significant concerns with the proposed changes to FHA's programs. MBA supports amendments to improve the bill consistent with these concerns and we stand ready to work with you and all the members of the Financial Services Committee as it moves forward.

Sincerely,

David H. Stevens
President and CEO

cc: The Honorable Maxine Waters, Ranking Member, House Committee on Financial Services
Members of the House Committee on Financial Services