Reform The Secondary Mortgage Market To Provide Certainty In The U.S. Housing Market

Congressional Action Needed:

Restructure the secondary mortgage market to ensure that affordable mortgages are available to consumers in all types of markets, and avoid a major disruption to the nation's economy that would result from the total collapse of the housing finance sector.

Congressional Actions to Date:

- The Senate Banking Committee is considering the Housing Finance Reform and Taxpayer Protection Act of 2014 (Johnson, D-SD; Crapo, R-ID), also referred to as the "Johnson-Crapo bill."
- Last year, the House Financial Services Committee passed H.R. 2767 (Garrett, R-NJ; Hensarling, R-TX), the Protecting American Taxpayers and Homeowners (PATH) Act.
- In the House, the Housing Opportunities Move the Economy Forward (HOME Forward) Act was introduced by Rep. Waters (D-CA).

What to Tell House Staff and Senators:

Enact housing finance reform that will:

- Ensure there is government participation in the secondary market;
- Safeguard the availability of long-term, fixed-rate mortgage products (i.e., 30-year FRM);
- Encourage private capital to return; and
- Provide consumers in all markets with access to affordable mortgage credit under all economic conditions.

Issue Background:

Fannie Mae and Freddie Mac were created to ensure that creditworthy borrowers had access to affordable mortgage capital no matter where they lived in the United States. For more than 70 years, the system worked well, combining government support and private capital to make affordable mortgages available to consumers. The system faltered during the housing collapse, and since 2008, Fannie Mae and Freddie Mac have been in conservatorship under the supervision of the Federal Housing Finance Agency (FHFA). During the last two sessions of Congress, there has been much discussion regarding the causes of the housing collapse, and the role that Fannie Mae and Freddie Mac played. It is unclear if any of the current proposals to overhaul the housing finance system will be signed into law this year.

Housing Finance Reform and Taxpayer Fairness Act (Johnson-Crapo Legislation)

Introduced by the Chair and Ranking Member of the Senate Banking Committee, the Johnson-Crapo bill has seen the most recent activity in Congress. The proposal replaces Fannie Mae and Freddie Mac with a new agency. The Federal Mortgage Insurance Corporation (FMIC) would regulate a new securitization platform and stand behind certain mortgages after the first 10 percent of losses on new loans are covered by private capital. FMIC also establishes an insurance fund, similar to the FDIC, which would shield taxpayers from having to support the corporation. The bill as drafted parallels many of NAR's GSE principles.

PATH Act

Last year, the House Financial Services Committee passed H.R. 2767, the Protecting American Taxpayers and Homeowners (PATH) Act, introduced by Representatives Garrett (R-NJ) and Hensarling (R-TX). NAR opposes the bill since it ends the federal guarantee for a secondary mortgage market; and dramatically restructures and greatly limits access to the FHA loan program.

HOME Forward Act

Representative Waters' (D-CA) measure, the HOME Forward Act, would wind down the GSEs and create a federal insurance fund to mitigate losses suffered by the private mortgage market. However, it does set up a lender-owned cooperative as the sole issuer of securities and requires that the private market take a smaller first-loss position (5 percent). NAR has not taken a position on this legislation.

Opposing Viewpoints

Critics believe that the elimination of a government role in the secondary mortgage market will better protect taxpayers and result in lower costs for borrowers.

NAR PRINCIPLES FOR A ROBUST SECONDARY MORTGAGE MARKET

An Efficient and Adequately Regulated Secondary Market is Essential to Providing Affordable Mortgages to Consumers

The secondary market, where mortgages are securitized, is an important and reliable source of capital for lenders, large and small, and therefore for homebuyers. Without a secondary market, mortgage interest rates would be unnecessarily higher and unaffordable for many Americans. In addition, a poorly functioning secondary market will impede both the housing sector recovery and the overall economy.

The Federal Government Must Clearly, and Explicitly, Offer a Guarantee of Some Mortgage Instruments

A federal guarantee is essential to ensure borrowers have access to affordable mortgage credit. Without government backing, creditworthy consumers will pay much higher mortgage interest rates, and mortgages may at times not be readily available — as has happened in the jumbo and commercial real estate loan markets.

The Government's Guarantee Should Ensure a Wide Range of Safe, Reliable Mortgage Products for Creditworthy Consumers

Available mortgage products should include 15-year and 30-year fixed rate loans, traditional adjustable-rate mortgages (ARMs), and other loan products that have stood the test of time, and for which American homeowners have demonstrated a strong "ability to repay."

PRESERVE REAL ESTATE-RELATED TAX POLICIES

Congressional Action Needed:

Lawmakers must remember the vital role that real estate tax provisions play in the nation's housing markets and economy. Tax reform is important but should first do no harm. Several tax provisions vital to distressed homeowners and commercial real estate have expired and need to be extended.

Congressional Actions to Date:

- No viable comprehensive tax reform legislation has been introduced, but draft House (Camp) and Senate (Baucus) reform proposals are circulating.
- Though tax reform is unlikely to move in 2014, the ideas presented in these draft plans could end up in feasible bills in the future, unless discredited now.
- Several important temporary tax provisions expired in 2013. The Senate Finance Committee has passed a bill to retroactively restore them. Final approval is expected but may not occur until late in 2014.

What to Tell House Staff and Senators:

- Mortgage Interest Deduction (MID): For more than a century, the MID has helped make homeownership more affordable for families of moderate means, strengthening our communities. Oppose efforts to eliminate or weaken the mortgage interest deduction for primary and second homes.
- Property Tax Deduction: Property taxes paid are not properly considered "income" for income tax purposes. Eliminating the deduction would result in double taxation. Oppose eliminating property tax deductions.
- Mortgage Debt Forgiveness Tax Relief: A provision that waives income tax on mortgage debt forgiven in a short sale or a workout for principal residences expired at the end of 2013. If distressed homeowners have to pay tax on "phantom income" from forgiven debt, many will not go through with short sales or workouts and will go into foreclosure. This is not only unfair but harms families, neighborhoods and communities. Support extending this tax relief now.
- Like-Kind Exchanges: This longstanding provision allows investment real estate to be exchanged for property of a like-kind on a tax-deferred basis. Exchanges are a key part of a high percentage of investment real estate transactions; if repealed, fewer redevelopment projects will go forward, resulting in fewer new jobs. The like-kind exchange provision provides liquidity to an illiquid asset, and repealing it would harm economic growth. This is not a loophole.

Issue Background:

While tax reform is on the "back burner" now, the ideas introduced by the House and Senate tax reform draft plans will be reconsidered when Congress gets serious about moving tax reform. It is important Congress understands now that reforms that harm real estate are nonstarters. In the meantime, there also are urgent provisions that have expired that Congress should extend now.

Real Estate-Related Provisions Must Be Preserved

- More than 75 percent of homeowners utilize the mortgage interest deduction at some point over the period they own a home.
- For many homeowners, property taxes are their largest deduction — one that continues long after a mortgage is paid off.
- The value of both mortgage interest and property tax deductions is capitalized into house prices. Eliminating the MID would cause on average a 15 percent drop in home values; decreasing the deductions, even for a limited group, would compress the value of all homes.
- Repealing the like-kind exchange provision would be counterproductive and result in the loss of jobs and economic growth and very little gain in revenue.

Expired Provisions Must Be Reinstated

- Despite significant market recovery, more than 6 million homeowners (13 percent of all homeowners with a mortgage) are still "under water."
- Continued high unemployment has resulted in 2 million households that are seriously delinquent on their mortgages or in foreclosure.
- Mortgage debt forgiveness tax relief is vital for these families.

Opposing Viewpoints

- Critics will argue that a simpler tax code with lower rates is better for housing than the current system, and the mortgage interest deduction most benefits high-income homeowners who do not need help buying a home.
- Deductions for property taxes subsidize high taxes and encourage bloated governments.
- The mortgage debt forgiveness tax relief provision was to be a temporary provision and has outlived its purpose.
- The like-kind exchange provision is a loophole that needlessly benefits those fortunate enough to own investment property.

PRESERVE THE MISSION AND PURPOSE OF THE FHA PROGRAM

Congressional Action Needed:

Ensure that the Federal Housing Administration (FHA) single-family program has the tools and policies in place to meet its mission of providing access to safe, affordable mortgage financing to qualified borrowers nationwide, without imposing burdensome limitations.

Congressional Actions to Date:

- The House Financial Services Committee has passed H.R. 2767, the Protecting American Taxpayers and Homeowners (PATH) Act, sponsored by Representatives Garrett (R-NJ) and Hensarling (R-TX). This legislation makes significant and troubling changes to the FHA program, including increasing down payment requirements, lowering FHA's loan limits, and significantly restricting who can use the program. NAR strongly opposes the bill.
- The Senate Banking Committee has passed S. 1376, the FHA Solvency Act, introduced by Senators Johnson (D-SD) and Crapo (R-ID). This bill contains common sense reforms that give FHA greater authority for risk management. NAR strongly supports this bill.

What to Tell House Staff and Senators:

- Oppose H.R. 2767, the PATH Act. This bill alters and reduces the role of FHA curtailing opportunities for homeownership for millions of qualified American families.
- Support S. 1376, the FHA Solvency Act. This bill provides additional tools to FHA to better manage risk to taxpayers.

Issue Background:

FHA, like every other holder of mortgage risk, has incurred financial losses as a result of high foreclosure rates. FHA has taken a number of steps to recoup its financial stability. These include increasing premiums five times in the last two years, increasing down payments on some borrowers, and increasing its risk management practices.

NAR has argued that FHA's current policies, such as the very high premiums, already hurt consumers. In 2014, the mortgage insurance premium of 1.35 percent is 80 basis points higher than the rate of 0.55 percent in 2010. For 2013, NAR estimates that between 125,000 and 375,000 potential homebuyers were priced out of the market due to the high FHA fees.

Provide FHA With Tools but Don't Disqualify Potential Homeowners

Congress should NOT impose additional cost or qualification burdens on consumers. Further mandated increases to premiums or down payments will disenfranchise American families and hurt our nation's housing and economic recovery.

For these reasons, NAR supports S. 1376, the FHA Solvency Act. This legislation provides FHA with flexibility to make necessary changes to the program, adds new taxpayer protections against lenders who make errors of material fact, and improves program oversight.

FHA Was a Critical Factor That Helped Move the Nation Out of the Great Recession

During the crisis, FHA was one of the primary sources of mortgage financing available to American families. FHA helped stabilize housing prices in thousands of communities by providing access to home financing when few others would. FHA has been a leader in providing low down payment, safe, affordable mortgages for qualified buyers. Changing this role would have a very negative impact in nearly every real estate market nationwide.

Raising Down Payments Doesn't Add to FHA's Bottom Line, and Hurts Consumers

Loans with higher down payments performed marginally better during the housing boom, but that effect has diminished in the wake of stronger underwriting, stable employment and changes implemented by FHA. FHA estimates that increasing the down payment to 5 percent would disenfranchise 345,000 borrowers a year — more than 43 percent of all FHA buyers.

Opposing Viewpoints

Critics argue that FHA's prominence in the market has pushed private investors out of the market, leaving the federal government as the sole source for mortgage financing. These critics maintain that the mission and role of FHA should be strictly limited to lower income and first-time homebuyer households. Lastly, critics argue that FHA's down payment requirements are too low, and should be risk-based to protect taxpayers.