COMMUNITY MORTGAGE LENDERS AMERICA

PRESERVING FAIR STANDARDS FOR COMMUNITY LENDERS

1 October 2013

The Honorable Tim Johnson
Chair, Senate Committee on Banking, Housing, and Urban Affairs
The Honorable Mike Crapo
Ranking Member, Senate Committee on Banking, Housing, and Urban Affairs
United States Senate
Washington, DC 20510

Dear Senators:

We write to you to express concerns that current legislative products may unwittingly provide a dominant place for Too-Big-to-Fail (TBTF) banks in the mortgage secondary space, further eroding small lenders' market share even if a small lender cooperative structure gets created.

Under S.1217, Section 213 stipulates that a securitization entity cannot have more than 15% of the marketplace, but then provides an exception allowing entities to securitize product they originate. This green light provides every incentive for TBTF banks to grow their business and dominate the US secondary market while simultaneously controlling other parts of the mortgage market today, including:

a. the US conventional origination market (39%)
b. the US residential servicing market (37%)
c. the US correspondent lending market (46%)
d. the FHA and VA origination market (59%)
e. the Ginnie Mae issuer market (51%)
f. the Ginnie Mae servicer market (50%)
g. the US mortgage second lien market (65%)

Numbers in parentheses: market share of the top 2 TBTF banks in 2012.

Under this legislation, a dominant TBTF bank could exercise market power unimaginable today, even greater than that of Fannie Mae and Freddie Mac. The GSEs, while allowed to grow too large, never were able to enter many segments of the mortgage finance marketplace. The TBTF banks, due to their size and reach into all aspects of the mortgage market, will be bailed out no matter the legislative language asserting otherwise. The vertical integration would be unprecedented in US history.

The new secondary guarantee provided to the largest mortgage lenders will be reflected in pricing at every level of the market – from origination, correspondent channels, secondary marketing and all mortgage-related services. And given the laws of economics, and the natural desire of businesses to expand, the TBTF banks will have every incentive and opportunity to price-pressure their smaller-lender competitors out of business, both individually, and as part of their investor coop structure.

A TBTF bank, already enjoying federal subsidies of deposit insurance, the Federal Reserve discount window, TARP bailouts, and now the new federal secondary mortgage backing, and further endowed with natural marketplace advantages inherent in liquidity and size premiums, will dominate the small lender coop in these pricing areas:

1. MBS pricing
2. Cost of debt to provide a cash window
3. Cost of capital needed to purchase any front-end infrastructure
4. Cost of debt to buy securities back from MBS for loan modifications

Furthermore, the TBTF banks will have the incentive and ability to offer irresistible pricing via their dominant correspondent channels to purchase the best-quality mortgages from smaller lenders, focusing on the mortgage characteristics necessary to further advantage the pricing of the TBTF banks' securities in the MBS marketplace. (This kind of economic pricing influence, while entirely legal, will be a natural state of play for any entity that can dominate each and every part of the mortgage market, as explained above.)

Unless the TBTF banks have hard limits in the secondary, and the small lender cooperative has built-in guarantees to be the largest secondary market player going forward, it will be price-squeezed over time into irrelevance.

Accordingly, we ask that any entity with more than 10% of the US origination marketplace be prevented from entering the US secondary; we ask that secondary market competitors to the small lender coop have a hard cap of 10% of the total secondary market, with no exceptions for internal production. We ask that the existing secondary framework not be wound down until the regulator has certified that the new small lender coop has achieved sufficient scale to make it the largest secondary entity, thus ensuring its long-term economic viability in the capital markets.

Thank you for your attention to this key matter, and we join you in a common desire to not further concentrate US mortgage markets among the TBTF, taxpayer-backed banks.

Yours sincerely,

Mike McHugh
Chairman
On Behalf of the Board of Directors

Cc: Senate Banking Committee Members

About the CMLA

The CMLA is a national community mortgage banking trade association representing Main Street community mortgage bankers. Founded in 2009, the CMLA is dedicated to providing a voice for the independent community based mortgage bankers. The CMLA is founded on the principal that a thriving independent mortgage banking sector increases competition in the industry and provides borrowers with greater choice resulting in lower costs and innovative products. For more information, visit www.thecmla.com, or call Ken Ferrari, Director, at 888.945.9488.