

May 21, 2018

Attention: Monica Jackson
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

**RE: Request for Information Regarding the Bureau's Supervision Program
Docket No. CFPB-2018-0004**

We are writing as Independent Mortgage Bankers (IMBs) to call for streamlined Consumer Financial Protection Bureau (CFPB) regulation of smaller IMBs.

The CFPB has a statutory requirement under subsection 1024(b)(2) of Dodd-Frank to exercise risk-based supervision, taking into account a non-bank financial firm's size, volume, product risk, and extent to which a firm is subject to oversight by state authorities for consumer protection.

In order to fully comply with this requirement, the CFPB should adopt a formal policy or rule that exempts smaller IMBs from being subject to CFPB exams or audits.

We also urge the CFPB to adopt a policy or rule under which it will not take enforcement action against smaller IMBs unless one of their state regulators or a federal regulator provides a referral for the CFPB to investigate and take action.

Community-based independent mortgage bankers originate and service affordable mortgage loans for first-time homebuyers, low-to-moderate income families, and other underserved borrowers. Because IMBs' sole business is mortgage loans, during the economic crisis we continued to provide mortgage credit while many large banks exited the market or focused on higher credit borrowers.

IMBs are supervised and regulated for compliance with federal and state consumer protection rules by our primary regulators (i.e. every state in which we do business), including licensing and qualifications requirements for all individual mortgage loan originators, and IMBs are also regulated by federal agencies that run mortgage loan programs that IMBs use, such as FHA, VA, and GNMA.

Redundantly, IMBs are also subject to supervision by the CFPB with respect to federal consumer protection rules. This dual regulation brings additional and unnecessary compliance costs and burdens. Such costs, combined with the threat of enforcement action, is magnified for smaller firms that do not have the economies of scale to spread compliance costs over a larger volume of loans.

Last June the Treasury Department released a detailed report on regulatory issues, which highlighted unnecessary regulatory burdens, with recommendations to address them. A major conclusion of that report was that "The CFPB's supervisory authority is duplicative and unnecessary."

Treasury's report noted that CFPB supervisory authority extends to state-licensed nonbanks that neither enjoy special status under federal law, "*nor is regulation needed to address moral hazard created by deposit insurance.*" The report further underscores the effectiveness of state supervision, noting that state supervisors "*were often leaders in identifying consumer protection problems during the financial crisis and have a unique perspective into the financial services available and needs in their communities.*"

The report concluded by calling on Congress to repeal the CFPB's duplicative supervisory authority, recommending that "*Supervision of nonbanks should be returned to state regulators, who have proven experience in this field and an existing process for interstate regulatory cooperation.*"

Additionally, CFPB Acting Director Mulvaney was recently quoted as saying that the CFPB is exploring allowing prudential regulators to take the lead more on supervisory matters, to reduce duplication and ease the regulatory burden of exams.

Section 1024(b)(2) of the Dodd-Frank legislation explicitly requires the following for non-banks:

(2) RISK-BASED SUPERVISION PROGRAM. The Bureau shall exercise its authority under paragraph (1) in a manner designed to ensure that such exercise, with respect to persons described in subsection (a)(1), is based on the assessment by the Bureau of the risks posed to consumers in the relevant product markets and geographic markets, and taking into consideration, as applicable—

(A) the asset size of the covered person;

(B) the volume of transactions involving consumer financial products or services in which the covered person engages;

(C) the risks to consumers created by the provision of such consumer financial products or services;

(D) the extent to which such institutions are subject to oversight by State authorities for consumer protection; and

(E) any other factors that the Bureau determines to be relevant to a class of covered persons.

In order to fully carry out Section 1024(b)(2), the CFPB should adopt a formal policy or rule that exempts smaller IMBs from being subject to CFPB exams or audits and further, the CFPB will not take enforcement action against smaller IMBs unless one of their primary state regulators or another federal regulator provides a referral for the CFPB to investigate and take enforcement action.

A model for this approach is H.R. 1964, the “*Community Mortgage Lender Regulatory Act of 2017*,” a bill introduced by Rep. Williams (R-TX). H.R. 1964 provides for streamlined, risk-based CFPB regulation of smaller independent mortgage bankers through such an approach.

Thank you for your consideration of these comments and suggestions.

Sincerely Yours,

1st Mortgage, Williamsville NY

Absolute Home Mortgage Corp., Fairfield, NJ

AKT American Capital, El Segundo CA

Allied Mortgage Group, Bala Cynwyd, PA

American Equity Mortgage, Inc., Cranberry Township PA

American Mortgage Service Co, Cincinnati OH

Atlantic Bay Mortgage, Virginia Beach VA

Bridgeview Mortgage Corp., Franklin Square NY

Century Lending Company, Louisville KY

Cherry Creek Mortgage, Greenwood Village CO

Churchill Mortgage Corporation, Brentwood TN

Earnest, San Francisco, CA

Equity Resources, Newark OH

Evesham Mortgage, LLC, Marlton, NJ

Financial Dimensions Inc., West Mifflin PA

Financial Freedom Mortgage LLC, Marlton, NJ

First Alliance Home Mortgage, Cranford, NJ

First Heritage Mortgage, LLC, Fairfax VA

Georgetown Mortgage, Georgetown TX

Golden Empire Mortgage, Bakersfield CA

Hallmark Home Mortgage, Fort Wayne, IN

Homestar Financial Corp., Gainesville GA

Hometruster Mortgage Company, Houston, TX

Holland Mortgage Advisors, Pittsburgh PA

Jersey Mortgage Co., Cranford NJ

Keystone Financial Services, Pittsburgh PA

K. Hovnanian American Mortgage LLC, Red Bank NJ

Lake Mortgage Co., Merrillville IN

Lenderworks, Fairfax VA

LLG Loans, Troy, MI

Mid America Mortgage, Inc., Addison TX

Mission Mortgage of Texas, Austin TX

MLB Residential Lending LLC, Springfield, NJ

Mortgage Investors Group, Knoxville TN

Mortgages Unlimited, Maple Grove MN

Mountain West Financial, Redlands, CA

NJ Lenders Corp., Little Falls NJ

Paramount Mortgage Co., St. Louis, MO

Platinum Home Mortgage, Rolling Meadows, IL

Priority Financial Network, Calabasas CA

Republic State Mortgage Co., Houston TX

Residential Wholesale Mortgage, San Diego CA

South Pacific Financial Corp., Irvine, CA

Stockton Mortgage Corporation, Frankfort, KY

Success Mortgage Partners Inc., Plymouth MI

Summit Mortgage Corp., Plymouth MN

Tidewater Home Funding, Chesapeake VA

Town Square Mortgage and Investments Inc., Plano TX

Trident Mortgage Co., Devon PA

Universal Lending Corporation., Denver, CO

VanDyk Mortgage, Grand Rapids, MI

Victorian Finance LLC, Pittsburgh PA