



Prepared Testimony of

Harry Dinham, CMC, NAMB President

National Association of Mortgage Brokers

on

“Preserving the American Dream:

Predatory Lending Practices and Home Foreclosures”

Before the

Committee on Banking, Housing and Urban Affairs

United States Senate

Wednesday, February 7, 2007

Good morning Chairman Dodd, Ranking Member Shelby, and Members of the Committee, I am Harry Dinham, CMC, President of the National Association of Mortgage Brokers (“NAMB”). Thank you for inviting NAMB to testify today on preserving the American dream of homeownership. We appreciate the opportunity to address the need to prevent predatory lending practices and assist those Americans facing foreclosure while maintaining a competitive and strong housing market.

NAMB is the only trade association exclusively devoted to representing the mortgage broker industry and speaks on behalf of more than 25,000 members in 50 states and the District of Columbia. Our members are independent, small business men and women that adhere to a strict code of ethics and best lending practices when taking consumers through the loan process. We typically maintain business relationships with various lenders to provide consumers with numerous financing options. These partnerships allow our members to offer consumers the most competitive mortgage products available.

We commend this Committee for holding this important hearing to identify, examine and address the underlying reasons for the most recent rise in mortgage delinquencies and home foreclosures. We appreciate the salient concerns raised by this topic.

It is a tragedy for any consumer to lose their home to foreclosure. At the same time, America enjoys an all-time record rate of homeownership. The challenge before us is to find a solution to the tragedy of foreclosure while at the same time ensuring that consumers continue to have access to the credit they need to finance their homes.

I. Record Homeownership

In 2002, the President called upon the real estate and mortgage-finance industries to help accomplish "America's Homeownership Challenge" ("Challenge"). This Challenge called on the industry to take "concrete steps to tear down the barriers to homeownership that face minority

families.”¹ The President set a goal of increasing the number of minority homeowners by 5.5 million families by 2010.

Shortly after the President’s Challenge was released, the Department of Housing and Urban Development (“HUD”) released a report that identified the most significant barriers to minority homeownership (the “Report”).² The five major obstacles listed were:

1. lack of capital for the down payment and closing costs;
2. lack of access to credit and poor credit history;
3. lack of understanding and information about the home buying process, especially for families for whom English is a second language;
4. regulatory burdens imposed on the production of housing; and
5. continued housing discrimination.

The Report stated that, combined, these factors “produced a gap in which non-Hispanic whites enjoyed a 68 percent homeownership rate, compared to only 48 percent for African-Americans and 47.6 percent for Hispanics.” Echoing the President’s Challenge, HUD also called upon the real estate and mortgage lending industries to “increase their levels of product innovation and marketing to minority families in order to sustain” growth rates achieved in the 1990s.

¹ “A Home of Your Own: Expanding Opportunities For All Americans.” George W. Bush (June 2002). <http://www.whitehouse.gov/infocus/homeownership/homeownership-policy-book-whole.pdf>

² “Barriers to Minority Homeownership.” U.S. Department of Housing and Urban Development (June 2002). <http://www.hud.gov/news/releasedocs/barriers.cfm>.

The industry responded. To achieve the goals set by the Administration and reaffirmed by HUD, mortgage originators, realtors, lenders, underwriters, and the securitizers and investors of Wall Street worked together to develop and deliver innovative loan financing options. These options allowed more Americans to achieve the dream of homeownership and brought about record rates of homeownership that have reached nearly 70 percent. New products are credited with addressing exactly the concerns identified in HUD's Report – providing financial options to families with little or no credit access, minimal, if any, down payment, lower monthly payments, and less “cash-out-of-pocket” at closing.

Achieving a homeownership rate of almost 70% and enabling more minority families to enjoy the multitude of benefits offered by homeownership – from community investment to wealth-building ability – is an impressive accomplishment for which the entire mortgage industry, along with this government, deserves credit. The zeal to achieve the benchmarks and objectives laid out by the current Administration has resulted in circumstances that now present industry and the government with a set of new concerns and challenges.

II. Today's Reality: Rising Delinquencies and Foreclosures

Today consumers, industry, and government are challenged by the rising number of mortgage delinquencies. Consumers are faced with the prospect of losing their homes. No one questions the tragedy of this fact. Even one family losing their home to foreclosure is one too many, regardless of the cause. For this reason, NAMB is committed to working with this Committee

and others to ensure that homeowners have continued access to affordable credit and are able to preserve their dream of homeownership.

But the unanswered question is: what is causing the rise in mortgage delinquencies and home foreclosures? No one knows for sure, but we believe there may be a number of factors:

- New homeowners unprepared for the costs and responsibilities of homeownership;
- Bankruptcy Reform;
- Speculative bubble in real estate values;
- Refinancing to cure delinquencies;
- Minimal wage gains;
- Illness and other life events;
- Credit card debt;
- Decreased savings rate;
- Fluctuating home values;
- Mortgage Fraud;
- Consumer Fraud;³
- Appraiser Fraud;
- Title Insurance Fraud;
- Predatory Practices;
- Risk layering;
- Consumers desire to live above and beyond their means;

³ See Merle Sharick, Erin E. Omba, Nick Larson, D. James Croft of Mortgage Asset Research Institute, Inc. *Eighth Periodic Mortgage Fraud Case Report to Mortgage Bankers Association* (pg. 12) (April 2006) <http://www.mari-inc.com/pdfs/mba/MBA8thCaseRpt.pdf>.

- Cash-out refinancing to maintain unsustainable standard of living;
- Consumer financial literacy;
- Owner v. non-owner occupied;
- Buyers of property with an intent to resell quickly;
- Criminal Enterprises;
- Bad Acts and Bad Actors;
- Investors and Speculators;
- Shrinking middle class;
- Exporting of jobs;
- New replacement jobs at low wages;
- The role of the secondary market;
- Regional job loss;

And the list goes on. The chances are unlikely that there is one cause of foreclosures.

III. No Rush to Judgment

Before we rush to judgment and conclude that a particular segment of the mortgage market or practice is largely responsible for the increase in home foreclosures, it is imperative to at least examine and verify the true causal factors for the increase in mortgage delinquencies and home foreclosures. We should not jeopardize the vast majority of consumers who have succeeded in using many innovative loan options to attain and maintain their homes. Do not forget those consumers who could benefit in the future from these innovative loan options.

Today, we can only speculate as to the reasons for the increase in mortgage delinquencies and home foreclosures. As a result, we can only make assumptions and take what is tantamount to a trial-and-error approach to possible resolutions. We have no assurances that current proposals are either appropriate or will yield desired results. NAMB does not believe that consumers should continue to suffer as we take a ‘trial and error’ approach—it is unfair and can result in unintended consequences.⁴

NAMB believes the problem of rising foreclosures is complex and will not be corrected by simply removing products from the market. As a study by the Office of the Comptroller of the Currency in 2006 states, “the relationship between predatory lending practices and foreclosure rates is more complicated than the arguments for restricting their (nontraditional loan products) use suggest. Policies that encourage subprime lenders to review and tighten loan underwriting and pricing procedures to ensure borrowers’ abilities to repay their loans are fully reflected in lending decisions and terms may be more effective than prohibitions on specific lending practices.”⁵

Instead, NAMB believes government and industry should take a step back and evaluate all the factors that could play a role in determining whether a family is forced to foreclose on their home.

⁴ See Mary Umberger, *Home buyer Counseling Challenged*, Chicago Tribune, Nov. 2, 2006. See https://www.hb4050info.com/Public_Web/Home.aspx for more information on the Cook County Illinois Predatory Lending Database, mandated by Article 3 of the Residential Real Property Disclosure Act1, (“H.B. 4050”) that led to falling neighborhood values, discrimination lawsuits, and lenders pulling out of the area. The program was suspended on January 27, 2006. See <https://www.hb4050info.com/pdfs/4050Scan001.pdf>.

⁵ Morgan J. Rose “Foreclosures of Subprime Mortgages in Chicago: Analyzing the Role of Predatory Lending Practices.” (August 2006).

IV. The Need for an Independent Study

NAMB firmly believes that an independent study to identify and examine the causes of foreclosures is necessary before we can create well-designed and effective solutions. Although numerous foreclosure studies exist, they are not independent and tend to focus solely on *a* single causal factor. To understand the true causal effects of foreclosures, NAMB urges Congress or the Administration to fund an independent study that is sufficiently broad to encompass all of the above-mentioned factors and is performed over an adequate period of time to take into account seasonal and cyclical changes in the market.

A long-term, independent study will aid the industry and government in determining the appropriate steps for long-term solutions to the foreclosure problem while ensuring that consumer choice, product innovation and the ability to maintain record rates of homeownership are not negatively impacted. In addition, NAMB believes that to pursue a comprehensive approach to the issues raised by the increase in foreclosure rates, we must include not only originators in the discussion, but also those who fund, service and collect on mortgage loans. Origination is but one step in the process of how a consumer secures financing to achieve and maintain homeownership.

However, as we all acknowledge and confront these problems and in our zeal to protect consumers from or help them weather the causes of foreclosures, whatever they may be, NAMB urges consumer advocacy groups, industry and the government not to forget the original goal to

increase homeownership and the success that has been achieved by creating new products. Today, more Americans own their home than ever before and while we must work to ensure Americans are able to stay in their homes, we must also be cognizant of the unintended consequences the policies we develop can have on families who have not yet achieved homeownership. As we move forward, NAMB urges government to use caution so as not to upset the balance created by the market that provides homeownership opportunities to so many Americans.

V. Policy Recommendations

Although we believe that this independent study must be performed, we appreciate that it is a long-term project that will not provide immediate relief to those consumers suffering from or facing the prospect of home foreclosure. We must also develop short-term solutions.

As discussed previously, the industry responded to this Administration's Challenge to increase homeownership. In the past five years alone we have witnessed a proliferation of market players and the development of numerous innovative loan products. Together, these developments have resulted in a healthy and competitive market that offers increased access to affordable credit.

But during this same time period, there were missed opportunities to address the growing need for a simplified mortgage process; prevent payment shock; and ensure that all loan originators were able to communicate the risks and benefits of increasingly complex loan products.

Now is the time to act. NAMB takes this opportunity to emphasize once more the need for Real Estate Settlement Procedures Act of 1974 (“RESPA”) Reform; uniform, minimum education standards for all loan originators; and committed funding towards enforcement and consumer financial literacy efforts. In addition, NAMB proposes the creation and use of a loan-specific disclosure to communicate key loan features upfront and deter the prospect of payment shock.

Before we address each of these policy proposals, we want to emphasize that regardless of what measures we pursue, we should (1) ensure that the integrity of the consumer decision-making process remains intact, and (2) that we do not risk ‘turning back the clock’ to a pre-Fair Housing Act era where certain population segments were unfairly denied access to loan financing options.

A. Protecting the Consumer’s Right to Remain the Decision-Maker

The consumer is the ultimate decision maker on the product, the price and the services purchased in conjunction with obtaining their financing. No merchant, no government and no company should superimpose their own moral judgments on what is a basic American privilege of homeownership.

Some have proposed that a fiduciary duty standard should be implemented and mortgage originators and their loan officers should act in the “best interests” of the consumer. NAMB remains opposed to any proposed law, regulation or other measure that attempts to impose a fiduciary duty, in any fashion, upon a mortgage broker or any other originator.⁶

⁶ See Attached Appendix A, *The Relationship of the Mortgage Broker to Its Consumer*.

Simply put, a mortgage broker should not, and cannot, owe a fiduciary duty to a borrower. The consumer is the decision maker, *not the mortgage broker*. Mortgage brokers do not represent every loan product available in the marketplace, nor do we have the “best” loan available. Rather, the mortgage broker enters into contracts with various lenders and is then able to offer such lenders’ loan products directly to the consumer. This is a critical point because there is no “best” result. What is “best” depends upon three inter-related concepts: product availability, price, and service. Focusing solely on a price of a product may not yield the “best” result for a consumer. Only the consumer can determine the “best” combination of factors that fit their needs.

Some have suggested that mortgage originators (not exclusively mortgage brokers) be subject to a suitability standard when dealing with consumers. This concept has not been thoroughly defined in the mortgage context. An ill-defined and vaguely worded suitability standard will do nothing more than inject greater subjectivity and vagueness into a process that today should be incorporating mostly, if not only, objective factors. Moreover, such a standard will create uncertainty and confusion in the marketplace, spurring litigation, which in turn will increase the cost of credit.

Some have suggested that mortgage brokers are not regulated. We disagree and we have submitted for the record a memorandum that highlights the federal and state laws that govern our industry.⁷ It is difficult to harmonize the assertion that the mortgage originator industry suffers from inadequate oversight and enforcement with a proposal that will require these very same originators to make highly discretionary and subjective judgments.

⁷ See Attached Appendix B, *The Regulation & Oversight of the Mortgage Broker Industry*.

For these reasons, no law or regulation should ever require any mortgage originator to supplant the consumer's ability to decide for him or herself what is or is not an appropriate loan product. As the decision-maker, the role of the consumer is to acquire the financial acumen necessary and take advantage of the competitive market place, shop, compare, ask questions and expect answers.

B. Out-Dated Disclosures

NAMB supports clear, consistent, and uniform communication with the consumer from the shopping stage through consummation and afterwards throughout the life of the loan (*i.e.*, monthly statements). Disclosures – when designed and used appropriately in conjunction with originator and consumer financial literacy efforts – alert potential borrowers to the risks and benefits presented by any particular loan product and support meaningful comparison shopping. Disclosures aid the consumer in exercising their right to make an informed choice.

NAMB reiterates the need to revise existing mortgage disclosures. We encourage HUD and the Federal Reserve Board (the “Board”) to review and update key disclosures given to consumers during the home buying process, such as the GFE and the Truth In Lending (“TIL”) statement. These disclosures are critical to the home buying process and should be modernized to reflect the growing popularity of nontraditional mortgage products in the mortgage market.

1. GFE Reform

In 2005, NAMB proposed a one-page GFE⁸ in response to a series of roundtables conducted jointly by the U.S. Department of Housing and Urban Development and the Small Business Administration throughout the summer of 2005. This one-page GFE mirrors the HUD-1 consumers receive at settlement and communicates not only the loan features and costs, but fully discloses the role of the loan originator in the mortgage transaction. Most important, the revised GFE would provide the information most valued by the consumer—meaningful closing costs and monthly payment.

The one-page GFE is a viable solution to the problem of abusive lending because it applies equally to all segments of the mortgage industry; is effective in preventing abusive lending tactics, such as bait-and-switch schemes; is informative because it clearly and objectively informs the borrower of the role of the loan originator in the transaction; and is enforceable, because it grants the consumer a private right of action.

Specifically, the NAMB proposed GFE possesses four distinct attributes:

First, it is even-handed. The NAMB proposed GFE would be equally applicable to all originators conducting business in the mortgage marketplace. Of import, the proposed NAMB GFE treats the disclosure of rate, fees, costs and points uniformly regardless of distribution channel, giving meaning to the ability to “comparison shop.” As a result, distribution channel bias is eliminated and all consumers are afforded the same level of protection against abusive lending tactics.

⁸ See Attached Appendix B, *NAMB Proposed GFE*.

Second, it is informative. The NAMB proposed GFE clearly discloses the role of the originator in the mortgage transaction. The borrower is notified that the loan originator does not distribute all of the loans available in the marketplace and therefore, can not guarantee the lowest rate. This aspect of the proposed GFE is significant. For example, as discussed previously, a loan product offering the lowest interest rate may not necessarily be the “best” loan product for the borrower. It is far more effective to disclose the role of the broker, the loan features and costs, and empower the consumer to comparison shop and choose a product that suits his or her needs. Also, requiring that every mortgage originator disclose his or her role and relationship with the borrower will eliminate any confusion on the part of the borrower—this approach actually ensures that a borrower is not operating under a faulty impression that an originator, such as a bank-affiliated mortgage lender, owes him or her a fiduciary duty.

Third, it is effective. The NAMB proposed GFE is effective in combating abusive lending tactics because it provides simplicity, clarity and transparency of the loan costs and features. It is one-page in length; mirrors the HUD-1 settlement statement; requires mandatory re-disclosure if settlement costs increase by more than 10% of the original estimate, or if the proposed interest rate increases.

Fourth, it is enforceable. Consumers are given a private right of action to enforce the GFE tolerance limits of 10% if no timely re-disclosure is given to the consumer.

We believe the NAMB proposed GFE form will build consensus among stakeholder groups while achieving HUD’s stated goals of simplicity, clarity, transparency, and greater cost

certainty for consumers. However, it is now 2007 and HUD has yet to release a revised version of the GFE. NAMB urges HUD to move forward with in working with the industry to develop and roll-out a GFE that incorporates the key elements outlined above and is more beneficial to consumers.

2. *Loan Specific Payment Shock Disclosure*

Current disclosures have failed to keep pace with market innovations, especially in the area of variable rate loans. Today, consumers are not given the tools needed to shop effectively for a mortgage in a market offering increasingly creative and complex options. Disclosures are laden with legalese, inconsistent, not required uniformly across all distribution channels, and fail to provide the information that consumers need most when making a decision. Most notably, there is no current loan specific disclosure that communicates to the borrower the variability of their monthly payment (*i.e.*, your monthly payment can go up to X) or interest rate (*i.e.*, your current interest rate is valid only for X months).⁹ As a result, consumers are left confused, unable to comparison shop loan products and subject to payment shock. There is a critical need for a uniform disclosure required across all distribution channels that will clearly and concisely impart loan specific information to the consumer and prevent unwanted surprises about payment shock and interest rate variations.

⁹ TILA does not adequately reflect the changing payment scheme and interest rate of many loan product types available on the market today. The recent CHARM booklet, as well as the new Interest Only & Pay-Option ARM booklet, provide excellent background information, but lack the specificity about a loan product's features that the consumer needs to know when deciding which loan product meets their needs.

NAMB proposes a loan specific payment disclosure notice that will: (1) educate the consumer about the specific loan product being considered and/or chosen, and (2) enable consumers to exercise an informed and independent choice about a particular loan product. A mortgage originator knowledgeable about the various market products would be able to also assist the consumer in understanding the information provided on the loan specific disclosure – the risks, the benefits and the choices available.

To address the issues of payment and interest rate shock, we recommend:

1. Requiring all loan originators to provide consumers, regardless of loan-product type, with a loan-specific payment disclosure;
2. This disclosure will show the consumer payment variations, (*e.g.*, a minimum and maximum payment for every loan product), interest rate variations, and disclose information about pertinent features such as prepayment penalty and negative amortization, if applicable;
3. This disclosure can be implemented through regulation to speed its implementation. Specifically, the initial loan-specific disclosure provided early in the shopping stage can be required through RESPA (*e.g.*, can accompany the estimated GFE), and the final loan-specific disclosure can be required at closing through Truth In Lending Act (“TILA”); and
4. Consumer testing by an independent third-party or governmental agency prior to implementing and requiring that all originators provide this disclosure.

A uniform and straight-forward disclosure, such as the one proposed here, will aid in the comparison shopping process for consumers and will provide a more simplistic explanation of the “worst-case-scenario.”

C. Standard Education Requirements for All Mortgage Originators

NAMB believes that part of the solution to successfully combat abusive lending tactics and reduce the number of foreclosures in America is to require education of all mortgage originators – not just mortgage brokers. All consumers Education of each and every mortgage originator helps to ensure that consumers are provided with sufficient information to make an informed decision about available loan financing options in the market.

To ensure all mortgage originators are well educated and knowledgeable about all loan products, NAMB has long advocated for uniform licensure, education (including ethics training) and criminal background checks for each and every individual that handles a 1003 application,¹⁰ *i.e.* every mortgage originator.¹¹ NAMB agrees that all “[l]ending personnel should be trained so that they are able to convey information to consumers about product terms and risks in a timely, accurate, and balanced manner.”¹²

NAMB is committed to ensuring that all originators are knowledgeable about the range of loan products available in the marketplace and understand the features, risks and benefits of the loan types that they offer. For this reason, we support federal efforts to implement a national minimum standard for all states to meet or exceed in lieu of a federal licensing mandate.

¹⁰ A Form 1003 is a Uniform Residential Loan Application.

¹¹ The basic requirements of education, continuing education, ethics training, written exams, and criminal background checks can be found in NAMB’s ongoing work and commitment on the Model State Statute Initiative (MSSI) that NAMB began in 2002, which is attached hereto as Appendix C.

¹² See Proposed Interagency Guidance on Nontraditional Mortgage Products (December 2005) p.35.

D. Financial Literacy and the Borrower

NAMB believes consumers should possess the necessary financial knowledge to carefully evaluate the risks and rewards of traditional and nontraditional products. Financial literacy is the tool that consumers need to make an informed decision as to whether a particular product—traditional or nontraditional—meets their needs. Financial literacy is also a valuable tool that will help consumers avoid foreclosure. If a consumer understands the risks and rewards of the product they have chosen, they will have a better understanding of how to stay in their home and avoid foreclosure.

Regardless of how knowledgeable a mortgage originator is or becomes, an educated consumer is always in a better position to make an informed decision when selecting a loan product that can match his or her financial needs. Borrowers must possess the financial literacy tools to properly evaluate the risks and benefits of nontraditional mortgage products that have been highlighted and communicated by the educated mortgage originator. For this reason, NAMB urges Congress to allocate funds for financial literacy programs at the middle and high school level so that consumers are educated about the financial decisions they make and retain their decision-making ability.

NAMB has always been a staunch supporter and advocate for consumer financial literacy. Our firm belief that an educated borrower is significantly less likely to fall victim to any abusive lending practice and to avoid foreclosure is demonstrated by our active involvement in various consumer education efforts. For example, NAMB initiated a pilot consumer credit education program using Freddie Mac's CreditSmart® and CreditSmart® Español financial literacy

curricula. The pilot is currently being managed by NAMB state affiliates in California, Florida and Texas. NAMB partnered with United Guaranty in 2003 to create a consumer information presentation – “Are You Prepared to Head Down the Road to Homeownership?®” – to help educate minorities, immigrants and low-to-moderate income households on the home-buying process. The presentation covers common home mortgage terminology, important steps in the home-buying process, fair housing laws, credit reports and more.

We recommend Congress to put forth measures and explore those avenues that outreach to borrowers and provide meaningful education to them in a timely fashion rather than just at the time of application or at the closing table. Possessing a fundamental understanding of the mortgage lending marketplace and the loan product types available will empower borrowers to comparison shop, ask meaningful questions and make financial decisions that advance their personal life objectives. Again, NAMB strongly believes that because financial education is the key to choosing the right loan product and protecting oneself against fraud, the consumer education process should begin at a young age. To this end, NAMB supports any effort that calls for federal funding to support consumer financial literacy efforts and outreach programs during the school years.

Again, thank you for the opportunity to appear before this Committee today to discuss this timely issue. I am happy to answer any questions that you may have.

Appendix A



The Relationship of the Mortgage Broker to its Customer

The majority of mortgage brokers are small, independent businesses operating retail offices open to the public for the purpose of obtaining mortgage financing. Like any retail source, the mortgage broker has wholesale distribution channels which supply them with inventory, in this case, a variety of mortgage products. The mortgage broker provides rate and price flexibility and among other things, offers numerous loan products, collects information from the borrower, communicates such with the lenders and facilitates closings. The public, in turn is able to choose the product offered by that particular mortgage brokerage firm. If the shopper does not find the product or price they want, they go to another mortgage source.

It has been suggested that we should be the fiduciary agent for the borrowing consumer .The mortgage broker is **not** the exclusive agent for the lender **or** the borrower. The mortgage broker is an independent entity that typically has contractual loan origination arrangements with multiple wholesale lenders. As an independent entity, mortgage brokers rely on referral business, which is obtained by offering a combination of good customer service, a variety of mortgage products and competitive interest rates. A broker that does not offer all of the afore-mentioned, will most often not get the business, since customers have the ability to shop for the rate, product and service that they prefer. Since not all mortgage brokers offer the same loan products or are approved with all lending sources, it would be impossible to assure the “best” mortgage options to every customer, thus making fiduciary responsibility unattainable.

A member of the National Association of Mortgage Brokers adheres to a strict code of ethics and best lending practices which can be found at www.namb.org. Mortgage brokers do the majority of all the mortgage loans in this Country and the public has declared us their mortgage originator of choice. For the past several years the borrowing public has opted to use the mortgage broker as their lending source, primarily because of competitive pricing, varied mortgage products, professional service and convenient location and hours.

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THE REGULATION & OVERSIGHT OF THE MORTGAGE BROKER INDUSTRY

Background Information

There are a variety of distribution channels in the mortgage industry today, and each of these distribution channels is heavily regulated at both the state and federal level. Mortgage brokers, like bankers and other lenders, comply with every federal law and regulation affecting the mortgage loan origination industry. Additionally, mortgage brokers comply with a host of state laws and regulations affecting their businesses, from which bankers and lenders are largely exempt.

Mortgage brokers are just one participant in a larger network of loan originators – including mortgage bankers, mortgage lenders, credit unions, and depository institutions – all competing to deliver mortgage products to consumers. There are actually very few substantive differences between these distribution channels when it comes to originating mortgages. The lines that once divided them have become increasingly blurred with the proliferation of the secondary mortgage market. Today, mortgage brokers and mortgage lenders are performing essentially the same function – they present an array of available loan products to the consumer, close the loan and then, almost instantaneously sell the loan to the secondary market (i.e., Fannie Mae or Freddie Mac).

Although consumers are often unable to distinguish one origination source from another, mortgage brokers stand singularly accused of operating on an unregulated basis. This accusation is plainly false. Mortgage brokers are regulated by more than ten federal laws, five federal enforcement agencies and at least forty-nine state regulation and licensing statutes. Moreover, mortgage brokers, who typically operate as small business owners, must also comply with a number of laws and regulations governing the conduct of commercial activity within the states.

Federal Regulation of Mortgage Brokers

Mortgage brokers are governed by a host of federal laws and regulations. For example, mortgage brokers must comply with: the Real Estate Settlement Procedures Act (RESPA), the Truth in Lending Act (TILA), the Home Ownership and Equity Protection Act (HOEPA), the Fair Credit Reporting Act (FCRA), the Equal Credit Opportunity Act (ECOA), the Gramm-Leach-Bliley Act (GLBA), and the Federal Trade Commission Act (FTC Act), as well as fair lending and fair housing laws. Many of these statutes, coupled with their implementing regulations, provide substantive protection to borrowers who seek mortgage financing. These laws impose disclosure requirements on brokers, define high-cost loans, and contain anti-discrimination provisions.

Additionally, mortgage brokers are under the oversight of the Department of Housing and Urban Development (HUD) and the Federal Trade Commission (FTC); and to the extent their promulgated laws apply to mortgage brokers, the Federal Reserve Board, the Internal Revenue Service, and the Department of Labor. These agencies ensure that mortgage brokers comply with the

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aforementioned federal laws, as well as small business and work-place regulations such as wage, hour and overtime requirements, the do-not-call registry, and can-spam regulations, along with the disclosure and reporting requirements associated with advertising, marketing and compensation for services.

Mortgage Broker Regulation in the States

The regulation of mortgage brokers begins at the federal level, but it certainly does not end there. Mortgage brokers are licensed or registered and must comply with pre-licensure and continuing education requirements and criminal background checks in forty-nine states and the District of Columbia. Additionally, over half of these states require not only mortgage broker licensure, but the licensure or registration of brokers' individual loan officers as well. An increasing number of states are requiring these originators to pass tests in order to become licensed. The same is not true for the thousands of loan officers employed by mortgage bankers and other lenders, who are exempt in most states from loan officer licensing statutes. While the Office of the Comptroller of the Currency exempts depository institutions from state licensing requirements, the states continue to increase their regulation of mortgage brokers and their individual loan officers. Many states also exempt lenders from licensing if they are approved by Fannie Mae or HUD, which subjects those lenders and their employees to significantly less regulation than most mortgage brokers.

As small businessmen and women, mortgage brokers must also comply with numerous predatory lending and consumer protection laws, regulations and ordinances (i.e., UDAP laws). Again, this is not true for a great number of depository banks, mortgage bankers, mortgage lenders and their employed loan officers, which remain exempt due to federal agency preemption. Many states also subject mortgage brokers to oversight, audit and/or investigation by mortgage regulators, the state's attorney general, or another state agency, and in some instances all three.

Conclusion

The mortgage industry is heavily regulated at both the state and federal levels; yet no amount of law or regulation will ever completely eliminate abusive practices from this or any industry. Placing additional restrictions on legitimate and law-abiding originators will not successfully address the problem of the truly unscrupulous lenders who brazenly ignore the laws as they currently exist. It is only through the enforcement of existing laws and the application of uniform legal standards to all originators that a lending environment will be created where consumers are free to shop and compare mortgage products and pricing among different distribution channels without fear or confusion.

Many of the current state and federal proposals to address abusive lending practices will simply not prevent predatory and abusive lending practices from occurring. Instead, these proposals could actually harm the consumer by restricting the choices of loan products, terms, and originators available in the market. Because each distribution channel is competing for consumers' mortgage loan business, consumers are best served when every mortgage originator is held to the same professional standards under the law.



Model State Statute Initiative

Licensing, Pre-licensure Education and Continuing Education Requirements for All Originators

*NAMMB proposes a state statute initiative to protect consumers
and ensure originator competency.*

June 2002

Amended January 2005

The National Association of Mortgage Brokers (NAMMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates and more than 27,000 members, NAMMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

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* As of June 2002

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Model State Statute Initiative

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June 2002

Dear Mortgage Professional:

Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Therefore, residential mortgage loan originators who work directly with the public should be educated, honest and professional.

The National Association of Mortgage Brokers is proud to announce a comprehensive initiative to better serve and protect the public through increased licensure, training and education of all residential mortgage originators. The NAMB Model State Statute Initiative is based on NAMB's firm belief that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

NAMB is taking a proactive stance on consumer protection. This model statute serves as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has four basic tenets:

- a) It should apply to all residential mortgage loan originators
- b) There should be a state licensing requirement
- c) There should be a pre-licensure education requirement
- d) There should be a continuing education requirement to maintain competency

Our 44 state affiliates, which comprise NAMB, support this initiative and recommend that specific concepts for licensure and education be considered based on each state's current statute(s). NAMB recognizes that some states have aggressively monitored the industry through licensure and others have made education mandatory; whereas other states have determined different levels of oversight to regulate the mortgage industry.

While each state is different, NAMB believes that this initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry in every state. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through to fruition and will monitor the progress of this initiative in each state.

Our state affiliates will now lead the charge to protect consumers through enhanced licensing, pre-licensure and continuing education proposals to their respective state legislatures and mortgage regulators.

Thank you for your support of this proposal for State Licensure, Pre-licensure Education and Continuing Education for all originators.

Sincerely,

A handwritten signature in black ink, appearing to read "Joseph L. Falk", written over a white background.

Joseph L. Falk, CMC, CRMS
President



NAMB Model State Statute Initiative

Goal: To better serve and protect the public, the residential mortgage loan industry will endeavor to license, train and educate all residential mortgage originators. NAMB firmly believes that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

Concept: Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Residential mortgage loan originators who work directly with the public should be educated, honest, and professional.

Overview: NAMB is taking a proactive stance on consumer protection. NAMB seeks to have individual state statutes enacted that require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model statute would serve as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has several basic tenets:

- a) It should apply to all residential mortgage loan originators**
- b) There should be a state licensing requirement**
- c) There should be a pre-licensure education requirement**
- d) There should be a continuing educations requirement to maintain competency**

NAMB believes that such an initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through fruition and will monitor the progress of this initiative in each state.

All residential mortgage loan originators should have formal training and should be tested on their knowledge of matters including financial analysis, ethics, federal and state disclosures, real estate law, and mathematical computations germane to real estate and mortgage lending prior to contact with the public. Residential Mortgage Loan Originators should be well qualified before they work with homeowners on mortgaging or financing their most valuable asset.

For this reason, NAMB recommends and supports a standardization of education and experience for every person who holds themselves out to the public to be a Residential Mortgage Loan Originator.

Licensing Overview

We believe that each state should enact a licensing requirement for all residential mortgage loan originators. The requirements for licensure should encompass all residential mortgage loan originators and all owners or responsible individuals of residential mortgage loan entities.*

Residential Mortgage Loan Officer Shall be defined as any individual who, for compensation or gain, takes or receives a mortgage application, assembles information, and prepares paperwork, and documentation necessary for obtaining a residential mortgage loan, or arranges for a conditional mortgage loan commitment between a borrower and a lender, or arranges for a residential loan commitment from a lender. Residential Mortgage Loan Officers also include an employee who solicits financial and mortgage information from the public for sale to another residential mortgage broker.

Principal Mortgage Owners/ Responsible Individual Defined as the owner, or managing general partner, or responsible individual, or any Officer, or stock holder, who holds themselves out to be the party accountable for residential mortgage loan originations or branch mortgage operations, with in the state, and/or the person in direct management of residential mortgage loan origination.

Exempt Any individuals who do not deal (i.e. negotiate interest rates, loan programs, offer loan locks, loan commitments) directly with borrowers. This includes persons who complete incidental services in arranging or procuring a mortgage loan, including administrative staff wherein their primary function is the verification of data provided by the borrower, assembly of documents and coordination of third party services such as ordering an appraisal, title report or credit reports.

Anyone who deals directly with a consumer and reviews, analyzes, evaluates a proposed borrowers financial statements, income, property characteristics and credit history should obtain a license.

Licensing Requirements

To obtain a state license to become a residential mortgage loan originator, the following concepts should be adopted:

1. A written application for licensure must be required. The application should require an attestation by the applicant as to the applicant's experience and knowledge of the mortgage industry.
2. The applicant should submit to a background investigation of, at a minimum, criminal records, and employment history.
 - No individual should be licensed who has had a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise who has acted beyond legal limits.
 - No person should be licensed who has been convicted of acts against society that could be deemed 'moral turpitude'. Such acts where licenses should be denied must include duties owed by licensees to the public including acts contrary to justice and the doctrine of "fair dealing", honesty, principle or good business morals. This includes, but is not limited to theft, extortion, use of the mail to obtain property under false pretenses, tax evasion and the sale of, or the intent to sell controlled substances.
 - The licensee should provide evidence that they have managed their business and personal financial affairs with care and diligence.

3. A first time Residential Mortgage Loan Officer Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of the subjects listed below.
4. A Principal Mortgage Lending Entity/Owner/Responsible party Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of course work from the subjects listed below.¹
5. A Licensee Applicant shall pass an examination of the applicant's knowledge after items 1-4 above have been completed.
6. Licenses shall be valid for a two-year period. Upon expiration of the two-year period, the licensee should submit an application for renewal to the appropriate licensing authority. The renewal application should, at a minimum, include evidence of completion of continuing education courses, as described below.
7. The licensing authority should have the authority to request additional information from the Licensee Applicant to support statements made on the application or dispute matters discovered through investigation.
8. All initial applicants shall submit a finger print card, which shall be forwarded to the local Department of Public Safety and/or FBI for a records check.
9. The Licensee Applicant shall pay sufficient fees to pay for Licensing Authorities' costs of processing the license application and investigations.
10. Upon receipt of a Residential Mortgage Loan Officers license, the licensee shall immediately deliver the license to his/her employing broker. Upon termination of employment of a Residential Mortgage Loan Officer, the license shall be transferred to a new employing broker and the regulating authority should be notified. If the Residential Mortgage Loan Officer does not have a new employing broker, the license shall be returned to the Licensing Authority with an explanation or the reasons for termination.
11. The appropriate state regulatory authorities should maintain state licensing or registration records.

Grandfathered Persons

Every Residential Mortgage Loan Officer, currently registered, licensed or otherwise employed in the mortgage industry immediately preceding enactment of this initiative shall be permitted to continue employment as a Residential Mortgage Loan Officer. Each current originator shall be required to meet all of the necessary elements of licensure at the next renewal period specified by state law.

Unless provided for in state law, every Principal Residential Mortgage Lending Entity or Owner, currently licensed immediately preceding enactment of this initiative shall be permitted to maintain their license and position. Each current Principal Residential Mortgage Lending Entity/Owner shall be required to meet all of the necessary elements of licensure at the next renewal period specified in the state law.

¹ Based upon the experience of many mortgage brokers, the educational requirement should be greater than that required of Residential Loan Officers.

Pre-Licensing Education

All persons making an initial application for licensing must:

- a) Attend educational courses, determined by the state, when applying for a Residential Loan Officer license;
- b) Attend educational courses, determined by the state, when applying for a Principal Mortgage Owner license;
- c) Pass a test of core competencies;
- d) Receive a certificate of completion from the school or organization that provided courses.

Each State or Licensing Authority should, with the assistance of the local mortgage professionals, establish review and approve curriculum sufficient to establish a baseline of knowledge for licensees.

Recommended Course Curriculum Pre-licensure course curriculum may include:

- a. Federal Lending Laws;
- b. Ethics, Diversity and Sensitivity;
- c. Practices of Residential Lending.
- d. Real Estate and Mortgage Mathematics;
- e. Escrow Procedures, Title Insurance and Loan Settlement;
- f. Appraisals and Land Survey;
- g. Loan Processing and Loan Underwriting Process;
- h. Secondary Mortgage Market;
- i. Loan Default and Foreclosure Law;
- j. State Statutes and Rules.

Continuing Education Requirements

Every residential mortgage originator, whether a Residential Loan Officer or Principal Mortgage Owner, shall, upon renewal of an existing license, submit proof of satisfactory completion of a course of study.

Subjects may include:

- a) Federal and State Lending Law;
- b) Local Rules and Regulations;
- c) Ethics and Professional Standards;
- d) General Real Estate or General Financial Studies;
- e) Product Update;
- f) Personal Development;
- g) Diversity Training.

Continuing education courses may be offered through classroom instruction, electronic transmission, or distance learning. Qualifying hours may be obtained by attendance at a locally chartered real estate or mortgage business school, accredited college, university or community college, or vocational school or other institution approved by the state licensing agency.

The licensee should receive a completion certificate that such hours have been successfully completed. Licensees shall submit the appropriate completion certificate(s) with the license renewal form.

Conclusion

It is the intent of this initiative to engage measures to reduce the incidence of predatory lending and to raise the standards for those persons who interact with the public in the area of home financing. Every Residential Loan Originator should be licensed, responsible and accountable for his or her actions when working with the public. We at NAMB believe that establishing minimum educational requirements as well as requiring continuing education will substantially increase each Residential Loan Originator's awareness of their responsibility and duty to give consumers fair and honest service. It may be desirable for each state to consider establishing a mortgage oversight board to assist the commissioner with up-to-date material for pre-licensing and continuing educational courses.

*This initiative contemplates using the words 'license' and 'registration' interchangeably. We leave to the States to determine if this process includes an individual license, permit or an aggregated corporate registration methodology, so long as both aspects of educational requirements are maintained and criminal background investigations and prohibitions are maintained. If a corporate registration of all originators is contemplated, it should require 'employee' status and a bonding requirement should be considered. It is understood that if such a corporate methodology is utilized, paragraph 10 under Licensing Requirements is not applicable.

Recommended Course Curriculum

Pre-licensure course curriculum may include:

I. Federal Lending Laws. Licensees should develop competencies in matters of federal mortgage statutes, which may include:

- a) Regulation Z, Truth in Lending Act;
- b) Real Estate Settlement Procedures Act (RESPA);
- c) Regulation B, the Equal Credit Opportunity Act;
- d) Regulation C, the Home Mortgage Disclosure Act;
- e) National Flood Insurance Act;
- f) Fair Credit Reporting Act;
- g) Federal Trade Commission rules concerning advertising for credit;
- h) Servicing Transfer Act;
- i) Privacy Act;
- j) Consumer Protection Act;
- k) Community Reinvestment Act.

II. Ethics, Diversity and Sensitivity. Licensees should be able to discuss the canons of:

- a) Fair Housing Act;
- b) Emerging Markets;
- c) Redlining and Block-busting;
- d) Ethical practices of mortgage lending.

III. Practices of Residential Lending. Licensees shall develop competencies in the subjects of:

- a) Evolution of Residential Lending in the United States
- b) The role of Government Sponsored Enterprises (GSE's)
- c) Federal National Mortgage Association
- d) Government National Mortgage Association
- e) Federal Home Loan Mortgage Corporation
- f) Federal Housing Administration
- g) Veteran's Administration
- h) Farmers Home Administration
- i) Private Mortgage Insurance Industry Principles of Mortgage Lending, including but not limited to:
- j) Assisting consumers in selection of loan programs including adjustable rate loans;
- k) Evaluating the relationship between discount points and interest rates;
- l) Describing the costs of originating a mortgage loan;
- m) Preparing and discussing the required state and federal disclosures with a consumer;
- n) Interpreting and discussing loan contingencies and covenants with the consumer;
- o) Explaining the loan commitment issued by a lender;
- p) Reading and understanding a real estate contract as it relates to financing of real property;
- q) Identifying methods of holding title to real estate and discuss options with the consumer;
- r) Describing the advantages of primary and subordinated financing options;
- s) Explaining and preparing a Good Faith Estimate of costs for a consumer.

IV. Real Estate and Mortgage Mathematics. Licensees should develop competencies in basic mathematics.

The licensee should have the basic skills to:

- a) Calculate gross and net loan amounts to satisfy a consumers loan request;
- b) manually prepare a Good Faith Estimate of costs and Truth in Lending statement;
- c) calculate and analyze ratios of mortgage payment-to-income;
- d) calculate the ratio of total obligations-to-income to determine loan acceptability;
- e) analyze income tax returns for self-employed borrowers to confirm sufficient income;
- f) calculate loan to value ratios;
- g) calculate origination fees, yield spread premiums and discount points;
- h) calculate prorations for real estate taxes and insurance amounts for the reserve account;
- i) calculate rate changes on adjustable rate mortgages;
- j) convert hourly and weekly salaries to monthly income to compute ratios;
- k) determine that the consumer has sufficient funds for closing;
- l) calculate monthly principal and interest payments and the amortization of a loan;
- m) calculate per diem interest amounts;
- n) manually calculate the Annual Percentage Rate
- o) describe the theory of Time Value of Money and the impact on the financing contract.

V. Escrow Procedures, Title Insurance and Loan Settlement. Licensees should develop competencies in matters of closing forms and the closing process. The licensee should be able to explain the documents and process so that the borrower fully understands what is taking place.

The documents to be explained include, but are not limited to:

- a) the mortgage note and its provisions for default, the lenders rights and the borrowers rights;
- b) the security agreement, (mortgage or deed of trust), including each of the covenants and conditions;
- c) the HUD-1 closing statement and its relationship to the Good Faith Estimate of Costs;
- d) the Good Faith Estimate of costs and final Truth in Lending statement;
- e) the consumers right of rescission.
- f) the purpose and cost of lenders title insurance;
- g) the purpose and cost of owners title insurance;
- h) title examination;
- i) title abstract;
- j) lien theory;
- k) Schedule "B" exceptions to title insurance

VI. Appraisals and Land Survey. The licensee should be able to describe:

The three methods of valuation, including:

- cost approach;
 - market approach;
 - income Approach;
- a) the theory of economic obsolescence;
 - b) the theory of functional obsolescence;
 - c) the theory of depreciation;
 - d) the theory of depletion;

- e) the Rectangular Survey System;
- f) the method of legal identification of real property in their state;
- g) calculate the number of acres in a given area;
- h) calculate the number of square feet in a given area.

The licensee should be able to understand and communicate with the borrower the purpose and process of the appraisal, the survey, title insurance, restrictive covenants, deed restrictions, and encroachments and pest inspections.

VII. Loan Processing and Loan Underwriting Process. Licensees should study the subjects of loan processing and underwriting. After study in this section, the licensee should be able to:

- a) prepare, explain, and execute a business agreement with the consumer;
- b) demonstrate the ability to understand and explain an FNMA 1003 mortgage application;
- c) explain requirements for determining if the property, income and credit of borrower fit the loan offerings available through the licensee.

The licensee should have the knowledge to collect the necessary exhibits anticipated for:

- a) underwriting contingencies;
- b) understanding the procedures and requirements for issuing adverse action notices;
- c) assembling for submission an entire loan package for underwriting.
- d) evaluation of an appraisers conclusions.

The licensee should also have a basic knowledge of:

- a) negotiating a rate lock;
- b) investigation and confirmation of application data;
- c) arranging for a property inspection;
- d) evaluating and reviewing a title insurance policy;
- e) owner's versus mortgagee's title insurance policies;
- f) the function and operation of private mortgage insurance and knowing when it is required;
- g) when private mortgage insurance can be canceled;
- h) the meaning of the terms novation, assumption, and "subject to the mortgage";
- i) release of liability.

The licensee should be able to demonstrate an understanding of the basics concepts of:

- a) fixed versus variable rate mortgage loans;
- b) negative and positive amortization principles;
- c) graduated payment mortgages;
- d) reverse mortgages;
- e) shared appreciation mortgages;
- f) bi-weekly mortgages;
- g) temporary and permanent interest rate "buy-downs";
- h) the concept of a wraparound mortgage.

VIII. Secondary Mortgage Market. Licensees should study the process of the secondary market. The licensee should be able to describe:

- a) how interest rate markets are established;
- b) interest rate risks;
- c) the theory of “yield spread premiums”;
- d) the theory and process by which loans are sold;
- e) the theory and purpose of a loan purchase commitment;
- f) FNMA and FHLMC standard eligibility requirements;
- g) the function and method of operation of FNMA, GNMA and FHLMC;
- h) the method and marketing aspects of a GNMA mortgage-backed pass-through security;
- i) the theory of “service release premiums”.

The licensee should also be able to explain the basic functions of;

- a) mortgage servicing;
- b) collections;
- c) remittance of payments;
- d) escrow accounts for taxes and insurance;
- e) payoffs ;
- f) assumptions;
- g) the transfer of servicing rights.

IX. Loan Default and Foreclosure Law. Licensees should study Foreclosure Law. Licensees should be able to describe:

- a) the type of foreclosure law most frequently used in their state;
- b) the legal process of a judicial foreclosure;
- c) the legal process of a trustee’s sale and how it differs from a judicial foreclosure;
- d) the borrower’s rights of reinstatement;
- e) the borrower’s right of redemption;
- f) the legal process of a forfeiture of equitable title;
- g) the effects of subordinate liens after foreclosure;
- h) the effects of mechanics and materialmen’s liens;
- i) the process of tax lien sales.

X. State Statutes and Rules. Licensees should study of State and local law. Licensees should be able to identify:

- a) minimum record keeping requirements;
- b) record retention requirements;
- c) minimum requirements for licensing;
- d) the process for examination of a licensee’s records;
- e) standards for accounting;
- f) standards for maintaining Trust Funds;
- g) minimum net worth requirements;
- h) minimum bonding requirements;
- i) local disclosure requirements;
- j) contracts and written agreements with consumers;
- k) minimum requirements for supervision of employees;



The National Voice of the Mortgage Broker

Established in 1972, the National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates, and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

A mortgage broker is an independent real estate financing professional who specializes in the origination of residential and/or commercial mortgages. There are approximately 33,000 active mortgage broker operations across the nation that employ an estimated 240,000 people and originate 65% of all residential loans in the U.S.

A mortgage broker is also an independent contractor who markets and originates loans offered by several wholesale lenders. By offering superior market expertise, and direct access to many different loan programs, a mortgage broker provides the consumer the most efficient and cost-effective method of obtaining a mortgage that fits the consumer's financial goals and circumstances. Mortgage brokers originate more mortgages than any other single loan source group in this nation.

The brokerage industry plays a significant role in the mortgage lending process and American economy, increasing competition and driving down costs. The expansive mortgage broker network allows loan wholesalers of all sizes to immediately gain a national presence without incurring the great expense of national advertising and maintenance of branch offices.

The mortgage broker industry is regulated by 10 federal laws, five federal enforcement agencies and over 45 state laws or licensing boards. Additionally, brokers typically have some type of Quality Control requirements and NAMB members also adhere to a strict Code of Ethics and best lending practices.