CH LA COMMUNITY HOME LENDERS OF AMERICA

Independent Mortgage Banks (IMBs)

Leading the Market in Mortgage Loans for First-time, Minority, and Other Underserved Borrowers

Community-Oriented; Consumer Focused

Small Businesses with No Taxpayer Backstop

Community Home Lenders of America (CHLA)
October 2022

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CHLA IMB Report 2022

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IMB SNAPSHOT

This is a Challenging Environment for IMBs. Independent Mortgage Banks (IMBs) currently face significant financial challenges arising from a number of adverse economic factors, including:

(1) *A doubling of 30-year fixed rate mortgage rates, from 3% early this year to 6% + today.*
(2) *A steep decline in demand for refinance loans, largely because of these higher rates.*
(3) *Shrinking profit margins, as lenders compete for declining overall mortgage loan volume.*
(4) *The risk of recession, which could further shrink demand for mortgage loans.*
(5) *Potential reduction in competition in software services (ICE purchase of Black Knight).*

IMBs' highest priority is to reduce and align expenses with shrinking loan volume and reduced profit margins. IMBs are already cutting expenses - through layoffs and through reduced loan originator (LO) costs (since LO compensation is generally based on an LO's loan production).

Smaller IMBs Are Better Placed than Large IMBs To Weather Challenges. Some IMBs will go out of business, but early signs are the larger IMBs are more at risk. Large IMBs with portfolio holdings or a non-QM loan focus have more risk than smaller IMBs. And, a number of larger IMBs went public, creating shareholder pressure to meet earnings expectations, making downsizing harder.

Financial Risks to IMBs Are Limited. The basic IMB business model is to originate federally backed mortgages (FHA/VA/RHS/GSE). This largely insulates IMBs from any impact of higher mortgage loan defaults or foreclosures - unlike bank portfolio lenders or Private Label Securities participants.

No Taxpayer Risk from an IMB Loan Originator Failure. The IMB business model means there is no real taxpayer impact of an IMB loan originator going out of business (if the IMB is not servicing loans). The only real impact is fewer mortgage lenders around to originate new mortgage loans.

Taxpayer Risk from Smaller IMB Servicer Failures is Miniscule. If Ginnie Mae issuer/servicers go out of business, Ginnie's risk of loss is extremely low, since their guarantee is backed by federally insured loans (FHA/VA/RHS). Ginnie Mae might have to transfer an issuer's MSR portfolio - but historically it has been relatively easy to transfer portfolios of smaller issuers with little or no cost.
The risk to Fannie and Freddie of IMBs going out of business is even lower, since many IMB seller-servicers have been selling loans through the cash window, reducing advance responsibilities.

Federal Policies Should Prioritize Access to Mortgage Credit over Risk Concerns. Homeownership affordability is under pressure, with rising mortgage rates and a runup in home prices. Federal policy makers should not take actions that contract mortgage credit in this environment - but instead should pursue policies which maintain broad access to affordable mortgage credit.

For example, FHA, VA, Fannie, and Freddie are overcharging certain borrowers and should cut their fees. Another example is Ginnie Mae and GSE financial requirements. CHLA appreciates that Ginnie Mae and FHFA recently scaled back proposed strict issuer and seller/servicer requirements. However, CHLA is still concerned about restrictive Ginnie Mae policies, particularly risk-based capital requirements that could cause falling MSR values and increase warehouse lender concerns.

Maintaining a broad base of Ginnie Mae issuers and GSE seller/servicers is critical to competitive execution of loans for consumers - particularly for minorities and other underserved borrowers.

THE MERGER OF CHLA AND CMLA

In August 2022, the Community Mortgage Lenders of America (CMLA) and the Community Home Lenders Association (CHLA), merged - creating the Community Home Lenders of America (CHLA).

As separate organizations, both CMLA and CHLA had represented similar members - smaller, community-oriented lender/servicers, with a strong focus on small and mid-sized independent mortgage banks (IMBs). Both organizations had also taken similar policy positions - like cutting FHA premiums, ending FHA's Life of Loan policy, and regulatory streamlining for smaller IMBs.

On GSE issues, CHLA and CMLA had actually worked jointly to help produce a string of victories for smaller mortgage lenders - including a permanent FHFA policy of G-fee parity, beating back vertically integrated Wall Street bank efforts to gain new GSE charters, denying big bank access to the Common Securitization Platform (CSP), and ending the counterproductive GSE profit sweep.

However, members of both organizations felt it was time to join forces to create more combined members, increased financial resources, and more staff - in order to be even more effective as the distinct voice and effective advocate for small and mid-sized independent mortgage banks (IMBs).

Wall Street banks and mega-IMBs in Washington have the resources to hire their own lobbyists and consultants to fight exclusively for their interests in Congress and with federal agencies. Smaller IMBs don't have the resources and economies of scale to do this. The merger gives CHLA an enhanced capability to fight for their distinct interests - and the consumers they serve.

CHLA is a different kind of association - not top-down, but bottom-up. Priorities, initiatives, and actions are not decided by Washington staff, but through a democratic participatory process. Any CHLA member can suggest a new idea, take the lead on an initiative, make a presentation before a federal mortgage agency or Congress, or just influence the direction CHLA is heading.

Initiative. CHLA believes in the power of initiative. The predecessor CHLA was founded 10 years ago this month. CHLAs very first action was to draft a Transitional Licensing bill and persuade Rep. Spencer Bachus (author of the SAFE Act) to introduce the bill as freestanding legislation. As often happens in Washington, it took many years and hard work to get this enacted into law. However, good things don't happen in Washington unless you take the initiative to put good ideas in play.

Leadership. CHLA believes in the power of leadership. Eight years ago, CHLA was early and visible about the need to cut annual FHA premiums. There were many skeptics, "the time wasn't right," it wasn't clear it would ever happen. But leadership is about advocating publicly, boldly, and consistently. In January 2015 FHA cut premiums by 50 basis points, which proved to be a success.

Persuasion. CHLA believes in the power of policy justifications. Cynics in Washington believe the biggest PAC budget, the best connections, or the largest membership always wins. But more often, the key to success is just having a winning argument and a good message. CHLA prides itself as a thought leader, backing up its policy priorities with solid persuasion - like how consumers benefit, what the impact is, or explaining why a proposal is the best way to achieve an agency's objective.

CHLA welcomes IMBs that are interested in this way of doing business to join the organization.

Executive Summary

IMBs in General

- *IMBs originated 64% of all new mortgage loans last year.*
- *IMBs consistently outperform banks in mortgage loans to first-time homebuyers, and minority, low-income, and other underserved borrowers.*
- *IMBs have much stronger consumer protection requirements than banks.*
- *IMBs are not backstopped by taxpayers, unlike big banks and Wall Street.*
- *IMBs are subject to financial regulation by states, FHA, GNMA, and GSEs.*

Small and Mid-sized IMBs

- *Smaller IMBs are true small businesses - with "skin in the game."*
- *Smaller IMBs have more personalized service than banks or mega-IMBs.*
- *Smaller IMBs pose no systemic risk and little or no taxpayer risk.*

CHLA Advocacy and Education

The Community Home Lenders of America (CHLA) is THE distinctive voice and advocate on behalf of small and mid-sized independent mortgage banks (IMBs).

CHLA educates Congress and federal agencies about small and mid-sized IMBs, through reports, comment letters, op-eds, webinars, and direct presentations.

Unlike most national associations that operate top-down, CHLA initiatives and priorities are set by its members through a democratic participatory process.

CHLA Policy Priorities

1. *Preserve an equitable secondary market access for smaller IMBs.*
2. *Ensure competition and consumer choice by preserving smaller IMBs.*
3. *Advocate for federal agency mortgage programs (FHA/VA/Ginnie Mae/GSEs)*
4. *Support regulatory streamlining of small IMBs, while protecting consumers.*
5. *Promote affordable mortgage loan options and loss mitigation protections.*

What are Independent Mortgage Banks

IMBs are non-bank firms that underwrite, originate, close, and service mortgage loans. IMBs predominantly originate federal agency loans (FHA, VA, RHS, Fannie Mae, Freddie Mac) and then securitize them (retaining servicing), sell them to the Fannie or Freddie cash window, or sell them to aggregators. IMBs fund their operations with their own capital and with loans from warehouse banks. Small and mid-sized IMB owners have "skin in the game" - with their own net worth at risk.

What IMBs are Not

- **IMBs are Not Wall Street.** It was large Wall Street banks – not small or mid-sized IMBs - that created the risky mortgage-backed securities (MBS) that caused the 2008 housing crisis.
- **IMBs are Generally Not Portfolio Lenders.** The great majority of mortgage loans that IMBs originate are federal agency mortgage loans (FHA, RHS, VA, Fannie Mae, and Freddie Mac).
- **IMBs are Not Mortgage Brokers.** IMBs close loans with their own funds - and are financially accountable for underwriting errors through FHA indemnification and GSE reps and warrants.

IMBs Are Not Taxpayer Insured or Otherwise Backstopped

- Bank deposits are backstopped by federal taxpayers through the FDIC. ***IMBs are not.***
- Banks access government sponsored Federal Home Loan Bank advances. ***IMBs do not.***
- Banks have access to cheap federal funds through the Federal Reserve. ***IMBs do not.***

IMBs Focus on Loans to Minorities, Underserved Borrowers in all Business Cycles

IMBs' sole business is mortgage lending and servicing - not cross selling financial products to well-heeled customers, a bank priority. When banks left mortgage lending or imposed credit overlays after the 2008 crisis, IMBs ramped up lending, focusing on minorities and underserved borrowers.

IMB Owners Are Personally Liable for Underwriting Errors, Financial Performance.

Unlike too-big-to-fail bank executives who are shielded from the consequences of poor mortgage underwriting or financial performance, IMB owner/executives bear the direct financial impact of an FHA indemnification or GSE loan buyback, as well as the firm's broader financial performance.

Small/Mid-sized IMBs Pose Little Taxpayer or Systemic Risk; Are Highly Regulated

Small and mid-sized IMBs pose no systemic risk and little taxpayer risk. IMBs are: (1) regulated by each state they do business in, (2) regulated by the CFPB (unlike 97% of banks), (3) subject to SAFE Act licensing requirements (unlike banks), (4) if an FHA lender, subject to Net Worth and Quality Control requirements, (5) if a Ginnie Mae issuer or Freddie/Fannie seller-servicer, supervised and subject to Net Worth and liquidity requirements, (6) subject to all federal mortgage regulations.

Significant Differences Exist between Small and Large IMBs

- Smaller, community oriented IMBs differ from large IMBs (as well as large banks) in key ways:
  1. Smaller IMBs pose little or no systemic risk or taxpayer risk if they go out of business.
  2. Smaller IMBs tend to grow organically and have less complex financial structures.
  3. Smaller IMBs have a more personalized relationship with their mortgage borrowers.
  4. Smaller IMBs are the true small businesses in the mortgage loan/servicing business.

CHLA advocates for federal mortgage policies that reflect these key differences between small/mid-sized IMBs and mega-IMBs.

CHLA Federal Policy Priorities

FEDERAL HOUSING ADMINISTRATION (FHA)

- **Cut annual premiums from .85% to .55%.** Increase homeownership affordability by reverting to pre-2008 Crisis premium levels, now that FHA's net worth is 4 times the required statutory minimum.
- **End Life of Loan Premiums.** Revert to pre-2013 policy of ending premiums when a loan hits 78% LTV. Life of Loan premiums overcharge borrowers and hurt minorities and underserved borrowers the most.
- **Adopt the CHLA/NAR/NAMB/CAI proposal to streamline FHA condo approvals.** Improve the FHA condo approval process by granting DE-type approval authority and improving approval transparency.
- **Make penalties for missed servicing deadlines more proportionate to their impact and tardiness.**
- **Raise permissible lender fees for FHA loan assumptions.** Allowable lender fee levels do not cover costs, thus discouraging FHA loan assumptions. This is important with skyrocketing mortgage rates.
- **Pay-scale comparability, more flexible contracting authority, full Information Technology (IT) funding.**

VETERANS ADMINISTRATION (VA)

- Allow the artificially higher VA funding fee to sunset in April 2023. Allow fees to drop from 2.3% to 2.15% for buyers utilizing a VA loan for the first time, and from 3.6% to 3.3% for all other borrowers.
- End use of VA home loan funding fees as pay-fors for non-home loan benefits. This diversion over-charges VA mortgage borrowers, so they pay more out of pocket for a benefit they already earned.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GINNIE MAE)

- Eliminate or Soften Risk-based Capital Requirements, to avoid declines in MSR values.
- Expand PTAP program to increase issuer liquidity and bolster warehouse lender confidence.
- Pay-scale comparability, more flexible contracting authority.

FANNIE MAE AND FREDDIE MAC/FHFA

- **Scale Back Restrictive Condo Changes.** Fannie and Freddie should transparently release for public comment proposed new restrictions on condo project approvals, and appropriately scale them back.
- **Pare Back LLPAs for Middle Income Borrowers.** Fannie Mae and Freddie Mac should reduce its January LLPA fee increases for middle income borrowers in higher cost areas and for second homes.
- **FHFA Should End GSE Conservatorships of Fannie Mae and Freddie Mac Under a True Utility Model.**

REGULATORY BALANCE FOR SMALLER IMBS

- CFPB: extend these basic SAFE Act licensing requirements to include all loan originators at banks over $10 billion in assets - using authority under Dodd-Frank that all loan originators must be "qualified":
  1. Pass the SAFE Act exam.
  2. Pass an <u>independent</u> criminal background check.
  3. Complete 20 hours of SAFE Act pre-licensing requirements.
  4. Complete 8 hours of SAFE Act continuing education courses each year.
- No Regulation by Enforcement for Smaller IMBs. The CFPB should not levy fines or take enforcement action against smaller IMBs without first giving them a chance to correct (as bank regulators do).
- Streamline state exams of smaller IMBs. CHLA commends CSBS for testing of multi-state exams of IMBs, with a goal of ending duplicative exams in multiple states that put small IMBs at a disadvantage.

REJECT CALLS TO EXTEND CRA TO IMBs AT STATE OR FEDERAL LEVEL

- CRA for IMBs (1) is not needed since IMBs far outperform banks in mortgages to minorities and underserved borrowers, (2) is not appropriate, as IMBs have no federal backing and actually bring capital <u>into</u> communities, (3) does not work, as the 15-year experience in Massachusetts has shown.

DENY APPROVAL OF ICE PROPOSED PURCHASE OF BLACK KNIGHT

- DOJ and the FTC should reject ICE's proposed purchase of Black Knight, to protect small lenders and their consumers by preventing pricing monopolies and tying practices in mortgage software services.

IMBs Originate a Majority of Mortgage Loans

Statistics show IMBs are now THE dominant force in mortgage lending. IMBs originate 90% of FHA and VA loans and issue 90% of Ginnie Mae MBS - critical low downpayment programs for first-time homebuyers.

ALL MORTGAGE LOANS [64% Market Share]

- "Non-depository institutions' (non-DIs') share of mortgage originations continued an upward trend that began back in 2010. In 2021, this group of lenders accounted for 63.9 percent of first-lien, owner-occupied, site-built home-purchase loans" [Source: "FFIEC analysis of 2021 HMDA data."]

FHA MORTGAGE LOANS [91% Market Share]

- The nonbank (IMB) share of FHA increased from 57% in 2010 to 91% in 2021. [Chart - page 13].
- "FHA is designed to encourage lenders to make credit available to borrowers whom the conventional market does not adequately serve, including first-time homebuyers, minorities, lower-income families, and residents of under-served areas (central cities)." [Source: FY 2022 Administration HUD Budget Appendix]

VA MORTGAGE LOANS [88% Market Share]

- The nonbank (IMB) share of VA mortgage loan origination stood at 88% in August 2022. [Source: Ginnie Mae September 2022 "Global Markets Analysis Report"]
- VA loans are 0% down mortgage loans for our nation's veterans and active-duty personnel.

GINNIE MAE SECURITIES ISSUANCE [90% Market Share]

- The nonbank (IMB) share of Ginnie Mae issuance increased from 12% in 2010 to 90% in 2021. [Chart - page 14]
- To some extent, this reflects the strong growth in the non-bank share of FHA, VA, and RHS loans over the last decade. But the closing of the gap between the nonbank share of FHA and Ginnie Mae is more a result of banks abandoning the correspondent loan business after the 2008 housing crisis, with IMBs significantly increasing their participation as Ginnie Mae issuers.
- Ginnie Mae facilitates a secondary market for FHA, Rural Housing Service (RHS) and Veterans Administration (VA) mortgage loans through the issuance of Ginnie Mae securities.

FANNIE MAE AND FREDDIE MAC LOANS [75% Market Share]

- Fannie Mae: Nonbanks (IMBs) originated 74.3% of Fannie Mae loans in April 2022. [Source: May 2022 Urban Institute Monthly Chartbook.]
- Freddie Mac: Nonbanks (IMBs) originated 75.4% of Freddie Mac loans in April 2022. [Source: May 2022 Urban Institute Monthly Chartbook]

IMBs Outperform Banks in Affordable Mortgage Loans to Minorities and Other Underserved Borrowers

URBAN INSTITUTE FEBRUARY 2022 REPORT: "WHO SERVES MORE PEOPLE OF COLOR IN MORTGAGE LENDING: BANKS OR NONBANKS"

- ***". . .banks substantially underperformed nonbanks in serving borrowers and neighborhoods of color."***
- ***". . . 5.6 percent of bank loans were made in neighborhoods of color in 2018 and 2019, compared with 9 percent of nonbank loans."***
- ***". . . banks make proportionally fewer loans to LMI neighborhoods of color and borrowers than nonbanks, largely because. . . banks have a narrower credit box. . . bank loans tend to have higher average credit scores and lower average debt-to-income ratios."***

GREENLIGHTING INSTITUTE NOVEMBER 2020 REPORT

A Greenlighting Institute report "Home Lending to Communities of Color in California concluded:

- ***"Women of color . . . are more likely to access a loan from a non-bank lender than from a mainstream bank."***
- ***"When Black, Asian and Latino low-income households do access home purchase loans, it is more likely to be from a non-bank lender"***
- ***"Non-bank lenders make twice as many home purchase loans to low-income borrowers as mainstream banks."***

URBAN INSTITUTE MORTGAGE REPORTS

- An August 2017 Urban Institute Report ("Housing Finance at a Glance") found that ***". . . the median FICO score for nonbank originations has been consistently less than the median FICO for bank originations for all three agencies"*** (Fannie, Freddie and GNMA].
- The report also noted that ***"the median DTIs of non-bank loans are higher, indicating the nonbanks are more accommodating in the DTI dimension as well as the FICO dimension."***
- Urban Institute Monthly Chartbook statistics consistently show IMBs do a better job than banks of serving underserved borrowers, as measured by metrics like FICO scores and DTI.

FEDERAL HOUSING ADMINISTRATION (FHA) LOANS

- IMBs originate 91% of FHA loans. In 2021, 85% of FHA loans were for first-time homebuyers, and FHA's share of Black and Hispanic borrowers was twice the percentage of all other mortgage loans.

A Broad Bank Retreat from Mortgage Lending After the 2008 Crisis

- **Following the 2008 Housing Crisis, many banks abandoned or reduced their mortgage lending:**
  - Many banks imposed credit overlays (even for FHA-insured loans with limited lender risk) - limiting their mortgage loans to borrowers with higher FICO scores and no credit blemishes.
  - Many large banks terminated their correspondent lending business for smaller loan originators.
  - Many banks sold off mortgage servicing portfolios and scaled back their loan servicing.
  - In 2022, Wells Fargo and JPM Chase announced a further retreat from mortgage lending.

IMBs Stepped in to Fill the Gap Since Mortgages Are All They Do

- **IMBs originate mortgage loans in all markets - good and bad - because that is all that IMBs do.** This is important in understanding why IMBs stepped in to fill the gap left by the banks' retreat from mortgage lending (driven in part by Internal Rate of Return considerations) and by bank use of credit overlays (driven in part by a focus on cross-selling lucrative financial products to well-heeled customers).

IMBs Have Stronger Consumer Protections than Banks

IMB Loan Originators (LOs) Have Much Stronger Requirements than Bank LOs

In order to be licensed as a mortgage loan originator (LO) at a non-bank (IMB), every LO must: (1) pass the SAFE Act Test, , (2) pass an independent background check, and (3) complete 20 hours of pre-licensing SAFE Act courses. In order to maintain that mortgage license, every LO at a non-bank (IMB) must complete at least 8 hours of SAFE Act continuing education courses each year.

All bank loan originators are exempt from all four requirements. Thousands of registered bank LOs failed the SAFE Act test – and their customers don't even know it!

IMBs Are subject to Regulation by the CFPB – Unlike 97% of Banks

IMBs are subject to regulation and supervision by every state in which they do business.
All IMBs are also subject to duplicative supervision and enforcement by the CFPB – while 97% of banks are below $10 billion in assets and thus exempt from CFPB supervision and enforcement.

Commenting on this discrepancy, the June 2017 Treasury Report on regulation stated that "**The CFPB's supervisory authority is duplicative and unnecessary"** – calling it **"unjustified as applied to non-banks"** - noting that before Dodd-Frank, these companies were regulated by the states which continue to license and supervise them.

IMB Loans Have Stronger Distressed Borrower Protections than Bank, PLS Loans

The great majority of mortgage loans that small and mid-sized IMBs originate are federal agency mortgage loans (FHA, VA, RHS, Fannie Mae, Freddie Mac). These loans require use of effective loss mitigation options (e.g., partial claims and loan modifications) to keep people in their home.

The 2008 housing crisis showed the severe harm to borrowers of non-regulated Private Securitization Loans (PLS), with no real loss mitigation requirements and borrowers' well-being taking second priority to bank protection of second lien mortgage loan interests. Some 13 years later, only limited progress has been made in protecting distressed borrowers in PLS loans.

Banks do a somewhat better job in serving distressed borrowers – but generally have don't have required application of standardized loss mitigation options that exist for federal agency loans. Notably, the Congressional COVID-19 requirement to offer a mandatory forbearance option to borrowers only applied to federal agency loans; it was only optional for bank portfolio loans.

IMBs Subject to All Federal Consumer Mortgage Rules – Plus State Requirements

IMBs are subject to the same federal consumer protection mortgage requirements as banks: Fair Housing, ECOA, HMDA, RESPA-TILA, QM, LO Comp, Anti-Steering, TRID, HOEPA, and others.

IMBs are also subject to consumer protection laws in every state in which they originate loans.

Puncturing the Myth that IMBs Are Risky

The 2008 Housing Crisis highlighted the financial risk of the nation's largest mortgage participants, such as Lehman Brothers, Bear Stearns, AIG, Countrywide, and WAMU. This culminated in trillions of dollars in federal financial assistance for these entities, and the collapse of the economy.
In contrast, virtually no federal bailout funds went to small or mid-sized IMBs during this crisis.

Yet, various players in Washington continue to propagate the myth that IMBs are very risky.
There may be some legitimate concern that the largest IMB servicers are systemically significant.
However, the reality is that small and mid-sized IMBs pose little or no financial or systemic risk.

Taxpayer Risk. Unlike banks, IMBs (1) do not have access to FDIC-insured, taxpayer backed deposits, (2) are not eligible for Federal Home Loan Bank (FHLB) advances, and (3) do not have access to the Federal Reserve window. Like banks, IMBs do underwrite mortgage loans directly or indirectly backed by taxpayers (FHA, RHS, VA, Fannie/Freddie) - but these programs have strict underwriting guidelines and lender net worth requirements, with penalties for faulty underwriting.

Systemic Risk. While dissolution or bankruptcy of one or a few large banks or IMBs could have market-wide consequences, the demise of a number of smaller IMBs poses no real systemic risk. The consequences of a smaller IMB going out of business is minimal: the IMB is no longer a loan source going forward and it is relatively easy to find a servicer to take over its servicing portfolio.

Consumer risk. IMBs are subject to all federal mortgage rules, and objectively are subject to more extensive consumer protections than banks (see page 11), since unlike banks: (1) every mortgage loan originator at an IMB must meet stringent SAFE Act testing and licensing requirements, and (2) all IMBs (no matter how small) are subject to CFPB supervision, exams and enforcement.

IMBs Are Heavily Regulated and Supervised

One claim feeding the myth that IMBs pose a major financial risk is the related myth that IMBs are not subject to any real financial regulation or supervision. **This claim is demonstrably false.**

The great majority of loans by small and mid-sized IMBs are federal agency loans (FHA, RHS, VA, Fannie Mae and Freddie Mac – with FHA, RHS, and VA loans securitized through Ginnie Mae. These programs have strong net worth and liquidity requirements and ongoing supervision.
[See the 4-page Chart on page 15 of this Report **(Regulatory Comparison – Non-Bank Mortgage Lenders and Banks)** that compares IMB and bank financial, supervisory, and regulatory requirements with respect to mortgage lending].

IMB Supervision Differs from Banks - Because no Taxpayer Backstop

IMBs are subject to regulations and supervision in every state they do business in. Fannie/Freddie have net worth and liquidity requirements for seller servicers. Ginnie Mae has net worth, liquidity requirements, and supervisory authority for issuers. FHA has Quality Control (CQ) requirements. IMBs are also subject to financial scrutiny and discipline by the warehouse lenders that fund them.

There is a simple reason banks are subject to federal safety and soundness regulation and IMBs are not. Taxpayers backstop banks through FDIC-insured deposits, FHLB advances, and Federal reserve advances - while IMBs have no taxpayer backstop. Banks also engage in risky commercial loans and investments – while IMBs only originate and generally sell or securitize mortgage loans.

IMBs Protected Borrowers During Covid Crisis

The COVID-19 crisis significantly increased the number of distressed home borrowers – through shutdowns, surging unemployment, and a rise in small business failures. IMBs - particularly small and mid-sized IMBs - played a critical role in protecting consumers during the crisis – refinancing borrowers into lower rates, executing forbearance requests, and implementing loss mitigation.

IMBs Led in Refinancing Homeowners to Improve Their Cash Flow

- "With mortgage rates reaching historical lows in 2020, mortgage refinancing activity reached its highest annual total since 2003. . . For full-year 2020, there were about $2.6 trillion in inflation-adjusted refinance originations, more than double the volume in the prior year." [Source: "Freddie Mac: "Refinance Trends in 2020"]
- Nonbanks (IMBs) made 80% of mortgage refinance loans at year end 2020, a much higher percentage than their mortgage market share – demonstrating IMB leadership in helping financially strapped borrowers. [Statistics Source: Urban Institute February Monthly Chart]

IMBs Led in Implementing Forbearance Option for Distressed Borrowers

- In March 2020, Congress enacted a ***"forbearance"*** option for borrowers stressed by COVID – allowing nonpayment of mortgage loans without penalties. ***However, this forbearance right only existed for federal agency loans; for bank portfolio and PLS loans, it was only optional.***
- Since the great majority of mortgage loans that IMBs service are federal agency loans, IMBs were the de facto leaders in carrying out this distressed homeowner forbearance option.

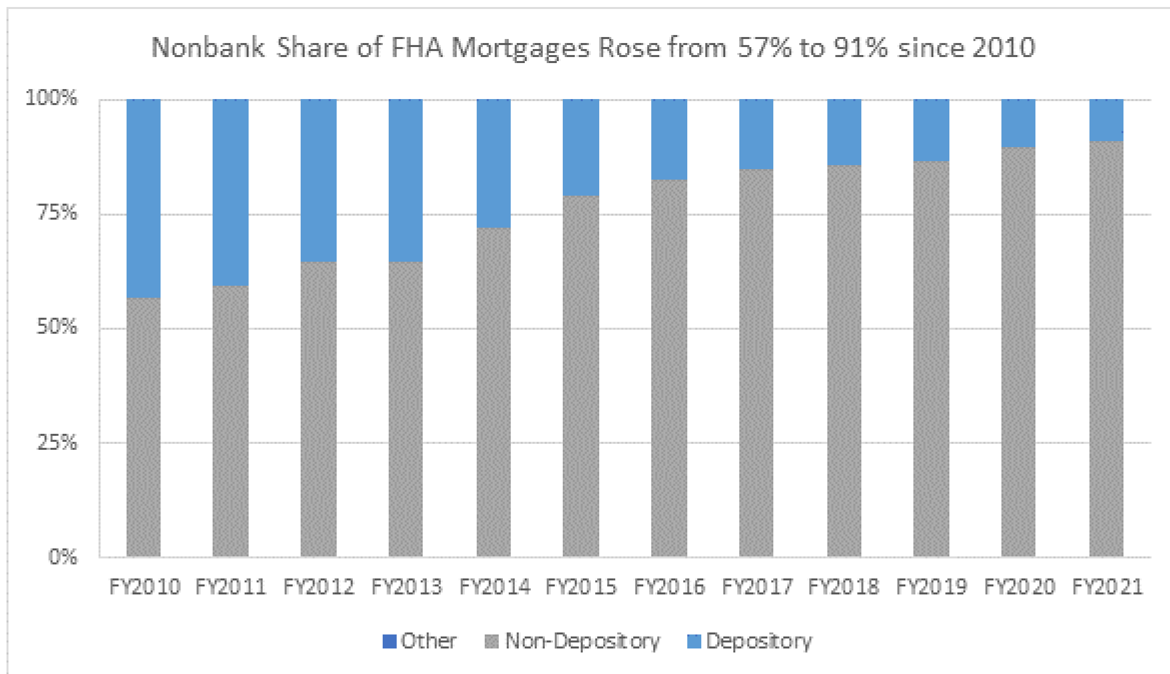
IMBs Led in Loss Mitigation Homeowner Retention Actions

- The 2008 Housing Crisis was characterized by a wave of borrower complaints about bank servicer non-responsiveness and the lack of loan modifications to keep people in their homes.
- ***The servicer response to the COVID crisis has been demonstrably better for 2 basic reasons: (1) IMBs – not banks – now service a majority of mortgage loans, and (2) the federal agency loan programs they serve have strong proven partial claims and loan modification programs.***
- Notably, community-oriented small and mid-sized IMB mortgage servicers service loans in a more personalized manner than the large, national, more impersonal mega-servicers.

COVID-19 Stress Test Demonstrated IMBs' Financial Durability

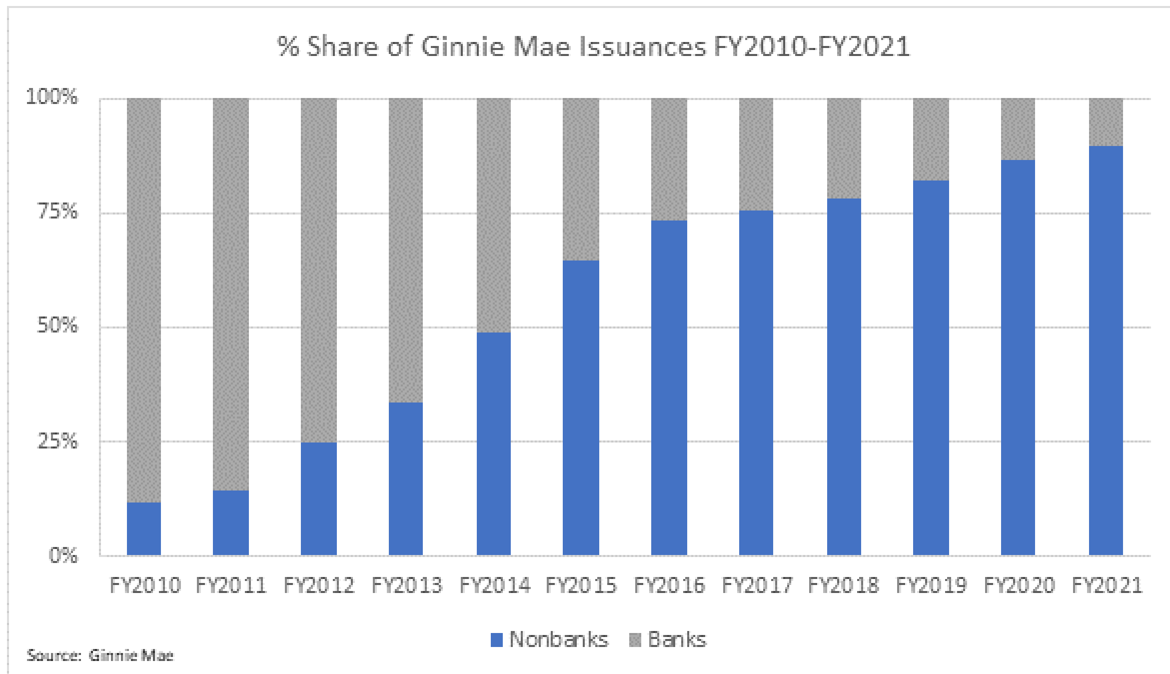
Early warnings were that IMBs that acted as servicers would not survive the tsunami of Ginnie Mae (and GSE) advances arising from the surge in mortgage delinquencies and the forbearance option. In practice, IMB financial assistance was not necessary, and bankruptcies or required MSR takeovers were virtually non-existent. Instead, IMBs stood tall, helping homeowners per above.

IMB SHARE OF THE FHA MARKET



IMB SHARE OF THE GINNIE MAE MARKET

Ginnie Mae Issuances by Nonbanks Have Skyrocketed from 12% to 90% since 2010



REGULATORY COMPARISON -
NON-BANK MORTGAGE LENDERS AND BANKS
Single Family Mortgage Loans

Community Home Lenders of America (CHLA)
[First Developed September 2015]
[Updated October 2022]

CONSUMER REGULATION

	NON-BANKS	BANKS
SAFE ACT: Mortgage Loan Originator Requirements	Every individual Mortgage Loan Originator at a non-bank must: • Must be licensed under state law • Complete SAFE Act Mortgage Test • Complete 20 hours SAFE Act Pre-licensing Courses • Complete 8 hours/year of SAFE Act Continuing Education • Pass an Independent Background check • Additional state requirements	Loan originators working at a bank: • Must be registered as a loan originator • EXEMPT from SAFE Act Test • EXEMPT from Pre-Licensing Requirement [training required commensurate with job] • EXEMPT from Continuing Education • EXEMPT from independent background check; the bank must conduct its own background check
CFPB Supervision, Enforcement and Exams	All non-bank mortgage lender/servicers are subject to CFPB supervision, enforcement and exams– for compliance with RESPA, LO Comp, servicing, and all other statutory mortgage requirements.	EXEMPTION: 97% of all banks are exempt from CFPB enforcement [i.e. all banks with under $10 billion in assets are exempt]
Consumer Compliance by Primary Regulator	Non-bank lender/servicers are subject to supervision and periodic consumer compliance exams for federal mortgage regulations in every state they do business in.	IDENTICAL – except this supervision and exams are conducted by their banking regulator.
Dodd/Frank Provisions	Non-bank servicers are subject to all Dodd-Frank consumer protections – RESPA, TILA, LO Comp rules, QM, predatory lending prohibitions, and Reg Z and X servicing requirements (except that some exemptions exist for servicers servicing fewer than 5,000 loans)	IDENTICAL

FINANCIAL REGULATION

Mortgage Servicing Net Worth, Capital, and Liquidity Requirements

	NON-BANKS	BANKS
GINNIE MAE (GNMA)	• Net Worth Requirement: $2.5 million, plus .35% (35 basis points) of GNMA UPB, plus .25% of GSE and non-agency servicing. • Liquidity Requirement: .1% (10 basis points) of GNMA UPB, plus .07% of scheduled GSE UPB, plus .035% of actual GSE UPB, and .035% of non-agency UPB. Also for Issuers >$1 billion UPB, additional .5% for loans held for sale and rate locks. • Capital Requirement: 6% Net Worth/Total Assets Ratio • Risk-based Capital Requirement: The basic 6% ratio is adjusted by excess MSRs over net worth and risk-based weighting of assets, such as 250% for Gross MSRs. • Quality Control (QC): Required QC plan - underwriting, origination, servicing and secondary marketing • Must meet GNMA requirements for bond administration, delinquency guidelines, and others	• Generally have to be "Well Capitalized," in accordance with bank regulatory standards • SIMILAR • SIMILAR
Fannie/ Freddie/ FHFA	• Net Worth Requirement: $2.5 million, PLUS a dollar amount that represents .35% of Ginnie Mae servicing, plus.25% of all other servicing obligations. • Liquidity Requirement: .035% (3.5 basis points on total agency (combined Fannie, Freddie, and GNMA) serviced loans PLUS 2% of non-performing agency loans that exceed a 6% default ratio, plus .5% of hedged loan commitments. • Seller-servicer Agreement spells out origination and servicing responsibilities, including Quality Control • Audits of loan files • Repurchase Obligations are imposed if underwriting rules are not followed	• SIMILAR, except banks permitted to use assets and capital from their banking operations to qualify
Non-Agency	• There is no national standard; each state can set forth its own requirements. • CSBS developed model prudential servicing standards for non-bank lender/servicers, comparable to FHFA.	• Federal banks are not subject to state regulations regarding servicing net worth or liquidity requirements. • State banking requirements vary by state

Federal Agency Mortgage Loan Origination Program Requirements

	NON-BANKS	BANKS
FHA	• Net Worth Requirement of $1 million + 1% of FHA loans > $25m [up to max of $2.5 m] • FHA approval of a Quality Control (QC) Plan • Credit Watch – loan default performance must be within reasonable numerical bands • Individualized loan (PETR) reviews • Audits of FHA loans; and HUD IG audit authority • Indemnification of losses if lender does not follow FHA loan underwriting guidelines • Enforcement authority over FHA requirements	• SIMILAR
RHS	• Must be approved for loan origination or servicing by FHA, VA, Fannie Mae, Freddie Mac, or the Farm Credit System • Must have a quality control (CQ) plan • Periodic compliance reviews	• IDENTICAL. Banks also deemed approved if supervised by the FDIC, Federal Reserve, OCC, or Federal Housing Finance Board. • IDENTICAL • IDENTICAL
VA	"Non-supervised" VA approved lenders must have a minimum adjusted net worth of $250,000 and have unrestricted credit lines of at least $1 million	• SAME
Fannie/ Freddie/ FHFA	* See previous Servicing section for seller/servicer requirements	* See previous Servicing section for seller/ servicer requirements
Non-Agency	• PORTFOLIO – No mortgage specific regulations – except few non-banks originate mortgages for portfolio • MBS – Subject to securities regulation	• PORTFOLIO – no mortgage regulations • MBS – Subject to securities regulation

Financial Regulation of Mortgage Lenders as a Going Concern

	NON-BANKS	BANKS
Net Worth & Liquidity	• Non-bank mortgage lenders are subject to net worth, liquidity, and bonding requirements set by each state in which they do business, plus periodic state exams **These requirements are generally lower, than banks, since their deposits are not guaranteed by the FDIC (and ultimately federal taxpayers), as banks are.** **Moreover, non-bank mortgage lenders have a single product line – mortgage origination and servicing – and many predominately originate federally guaranteed loans** • Impact of non-bank lender going out of business: 1. **Servicing advance obligations and MSR transfers**: Per above, GNMA, FHFA/GSE, and state regulations protect consumers and the agencies with respect to these obligations 2. **Indemnification/repurchase obligations**: Per above, GNMA and FHFA/GSE regulations protect agencies from counterparty risk, and aggregators and securitizers set standards for non-agency loans to address their counterparty risk 3. **Other Impacts of a non-bank failure**: All losses are absorbed by private parties – the owner(s) of the firm (who may also have other assets at risk through a personal guarantee) and other parties (warehouse lenders, counterparty entities). There is no federal taxpayer impact. Thus, the main impact of a non-bank mortgage lender failure is that they will no longer be able to originate mortgage loans	• Banks are subject to net worth and safety and soundness regulations, and periodic bank examinations by their respective bank regulator **These are driven by federal taxpayer exposure through a guarantee of their deposits by the FDIC** **Regulation also addresses risk of other products and activities that banks engage in, such as construction lending, small business loans, etc.** • Impact of bank going out of business: 1. **IDENTICAL** 2. **IDENTICAL** 3. **Other Impacts of bank failure**: The FDIC guarantee can result in losses to the FDIC fund. During the 2008 housing crisis, the federal government also provided hundreds of billions in dollars of TARP loans to banks.