CHLA COMMUNITY HOME LENDERS of AMERICA

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CHLA 2023 Report on 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

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INTRODUCTION

*The Community Home Lenders of America (CHLA) represents small and mid-sized independent mortgage banks (IMBs) – and is the **only** national association that exclusively represents IMBs.*

Every year CHLA publishes its IMB Report, which aims to educate the public, the press, Congress, and federal officials about IMBs.

Since the 2008 Housing Crisis, IMBs have become an increasingly dominant force in the origination and servicing of mortgage loans. IMBs decisively outperform banks in originating and servicing mortgage loans to first-time homebuyers, minorities, and other underserved borrowers.

This report continues the practice of chronicling this performance, explains who IMBs are, details how extensively IMBs are regulated, rebuts myths about alleged IMB risks, and highlights CHLA advocacy efforts on behalf of IMBs.

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2024: Key Takeaways for Federal Policy Makers

CHLA offers these key takeaways to Congress and federal officials responsible for mortgage policies:

1. The Fed and the GSEs should buy mortgage loans to restore historical rate spreads vs. Treasuries.

- After the Fed stopped buying loans, mortgage rates soared to 125 basis points over historical spreads.
- Mortgage rates fell at the end of 2023 – but spreads over Treasuries remain unreasonably wide.
- Reducing mortgage rates is critical to restoring homeownership affordability for families.
- Purchasing mortgage loans now is much safer financially than when the Fed bought at 3% levels.

2. Consumers benefit from a broad range of IMB lenders, to increase competition and consumer choice.

- IMBs decisively outperform banks in mortgage loans to first-time, minority, underserved borrowers.
- A broad range of IMB issuers is critical to increased competition, lower rates, and consumer choice.
- Therefore, Ginnie Mae and GSE financial requirements, policies, and supervision should place a high priority on maintaining a broad base of qualified IMB lender/servicers, including small IMBs.
- Federal mortgage programs (FHA, VA, RHS, Fannie Mae, and Freddie Mac) and third-party services that are a part of the mortgage process should **never** price discriminate against smaller lenders.
- Federal mortgage program policies should prioritize access to mortgage credit and fair pricing.

3. IMBs – particularly smaller IMBs – pose virtually no taxpayer or systemic risk.

- The main IMB business model is to originate federally backed mortgages (FHA/VA/RHS/GSE) and sell the mortgages to third party aggregators or securitize them (with or without retaining servicing).
- This model insulates IMBs from financial risks from losses or declining values of mortgage loans.
- Thus, the only impact from an IMB lender going out of business is they can no longer originate loans.
- For IMBs servicing loans, only a few mega servicers pose any meaningful taxpayer or systemic risk.

4. Congress and/or Federal Agencies should adopt CHLA's Consumer Bill of Mortgage Rights.

- Technology exists to give consumers the right to prevent Abusive Trigger Leads when their credit is pulled on a mortgage application. Industry telemarketing interests should not supersede that right.
- Every mortgage borrower should be served only by fully licensed mortgage loan originators.
- Pricing of quasi-monopolistic services like credit reports and LOS services should be scrutinized.
- Dual compensation should be subject to full disclosures and conflict of interest protections.
- Mortgage brokers should be subject to the same LO Comp rules as mortgage bankers.

5. Duplicative, unnecessary regulation undermines smaller IMBs' ability to serve homebuyers.

- IMBs are regulated by (1) the CFPB, (2) every state they do business in, and (3) federal loan program regulators (e.g. FHA, FHFA). IMBs also must comply with a wide range of federal mortgage rules.
- Small IMBs don't have the regulatory economies of scale large IMBs do, so small IMBs should have streamlined regulatory policies like small banks have. Failure to do so increases industry consolidation.
- The CFPB should never use regulation by enforcement for smaller IMBs.
- Imposing CRA on IMBs is not needed, is not justified, and in practice is counterproductive.

6. IMBs continue to face financial headwinds - but are downsizing to adapt to market forces.

- Mortgage rate increases from 3% to 7-8% have crippled refinances, hurting IMB volume and revenue.
- Profit margins have shrunk as lenders compete for declining mortgage volume.
- Individual IMBs are adjusting by re-sizing their expenses to fit their revenues.
- Some IMBs have gone out of business or been bought out – helping adjust supply and demand.
- A drop in mortgage rates to the 5 to 6% range would enhance profitability of IMBs.

2023: A Year of Public Policy Advocacy Successes for IMBs

1. Restoring Balance, Offering Indemnification Alternative to Costly, Inefficient Repurchase Demands

- **FHFA - Reps & Warrants/COVID Forbearance.** On October 16**, FHFA announced Rep & Warrant relief** for forbearance on GSE loans authorized by Congress during COVID-19.
- **Freddie Mac – Indemnifications in Lieu of Repurchase.** On November 18, Freddie Mac announced a **Pilot** creating a fee-based repurchase alternative (indemnification) for performing loans, including waiving the indemnification fee for smaller lenders. **Fannie Mae** has also moved – more slowly - towards offering more indemnifications in lieu of repurchase demands as the year progressed.
- ***CHLA Advocacy:*** *CHLA had written a **Letter** to FHFA in May, asking for such an indemnification option in lieu of a repurchase demand, highlighting the excessive costs of repurchase demands and citing several examples of inappropriate repurchase demands.*

2. FHA Cuts Annual FHA Premium by 30 Basis Points

- **A 30 Basis Point Annual Premium Cut** for FHA Loans was announced by FHA on February 22. The Administration estimated this will save $900 a year for a homebuyer with a $300,000 loan.
- ***CHLA Advocacy:*** *A premium cut had long been a CHLA priority, evidenced by numerous Op-eds and letters, including a **CHLA sponsored May 2022 IMB sign-on letter** highlighting the success of the previous premium cut in 2015.*

3. Congress Ends Overcharging of VA Mortgage Loan Fees

- **Congress Allowed $200 million in "Blue Water" fees on VA Loans to expire in April.**
- Imposed since 2019, the VA fees paid for non-housing offsets and were not justified by loan risk.
- ***CHLA Advocacy:*** *CHLA had written a November 2022 **Letter** to the Veterans Committee Chairs and Ranking Members asking for the VA fees to expire, citing Congress' extension of excessive GSE offset fees one year earlier as a cause for concern.*

4. Ginnie Mae and FHA Provide Flexibility to Avoid Costly Re-pooling of FHA Loans

- In May, FHA announced a **Payment Supplemental Partial Claim** proposal, designed to keep more defaulted borrowers in their home and avoid servicer losses from taking defaulted loans out of pools.
- **CHLA Advocacy:** CHLA was the first trade group to support Supplemental Partial Claims in an August 2022 **Letter**.
- In January, **Ginnie Mae** shortened the period required for re-performing loans to be re-pooled from 6 months to 3 months, which helps issuers' liquidity in a rising mortgage rate environment.
- ***CHLA Advocacy:*** *CHLA had pressed for this change, along with CHLA requests for smaller pool sizes (which Ginnie implemented in 2022).*

5. FICO Ends Sweetheart Pricing for Certain Borrowers

- FICO's 2024 pricing eliminates sweetheart deals for a select group of 50+ lenders (although FICO unfortunately has hiked prices by 500% since 2022 and ended lower pricing for soft credit pulls)
- ***CHLA Advocacy:*** *CHLA was the **only** group publicly fighting discriminatory FICO pricing, in a 2022 **Letter**.*

6. Divestitures follow FTC Challenges to ICE Purchase of Black Knight

- In August, the FTC announced a **Settlement** of its challenge to ICE's purchase of Black Knight, under which both Empower and Optimal Blue would be required to be divested.
- ***CHLA Advocacy:*** *CHLA was the **only** trade group to ask the FTC to challenge the ICE/Black Knight deal in a June 2022 **Letter** to the FTC. CHLA continues to call out anti-competitive ICE practices, like tying and excessive user seat charges.*

2023: A Year of Public Policy Advocacy Successes for IMBs (Continued)

7. FHFA Terminates DTI Component of LLPA Pricing

- In May, FHFA **rescinded LLPA charges** for higher DTI Fannie Mae and Freddie Mac loans.
- ***CHLA Advocacy:*** *CHLA was a strong advocate for rescinding these fees, arguing in an April* ***Letter*** *to FHFA that the fees would harm underserved borrowers, create confusion in the loan process, and create underwriting challenges for lenders.*

8. FHFA Extends Rollout, Public Engagement of Tri-merge Credit Score Initiative

- In September, FHFA **announced** it would seek more comment on implementing Tri-merge.
- ***CHLA Advocacy:*** *CHLA supported Vantage Score as an alternative to begin to end the FICO monopoly, but asked for a slower rollout of Tri-merge in an* ***FHFA Letter.***

2023: Progress on a Better Approach to Repurchase Demands

A top priority in 2023 for CHLA was to document the excessive Fannie and Freddie repurchase demands, to explain the inefficient and unfair financial cost this imposed on lenders, to highlight how detrimental this is for borrowers, and to explain why indemnifications are a much better resolution for performing loan defects.

In May, 2023, CHLA wrote a **Letter** to FHFA, Fannie Mae and Freddie Mac. CHLA made the following points in support its request for a GSE policy to routinely offer indemnifications in lieu of repurchase demands:

1. *Such policy avoids unfairly penalizing borrowers current on their mortgage payments, who lose their legal rights to Enterprise loss mitigation protections when a repurchase is made.*
2. *Such policy reduces disincentives for lenders to originate Enterprise loans to underserved higher risk borrowers and to borrowers in rural areas with fewer appraisal comps.*
3. *Such policy alleviates the unfairness of imposing loan losses to lenders averaging 30% + per loan for loans that are performing and are likely to never go into default or foreclosure.*
4. *Such policy avoids a grossly inefficient market outcome where a repurchase costs the lender 30% + per loan on average-but saves Fannie and Freddie a tiny fraction of that amount.*

Separately, CHLA wrote and advocated before FHFA, Fannie Mae, and Freddie Mac in favor of giving GSE lenders selling loans to aggregators a seat at the table in contesting repurchase demands on a timely basis.

URBAN INSTITUTE REPORT ON REPURCHASE DEMANDS

On November 27, 2023, the Urban Institute release a report **entitled "GSE Repurchase Activity and Its Chilling Effect on the Market."** Following are key conclusions from this report:

- *Lenders need to be responsible for serious loan defects that reflect carelessness or fraud in underwriting.*
- *That said, credit quality is better today than it was before the financial crisis.*
- *Although the FHFA is encouraging the GSEs to support more first-time borrowers and borrowers of color, the GSEs' repurchase policies could be having the opposite effect on lending.*
- *In particular, when originators are hit with repurchase requests, they tend to be more reluctant to make mortgages to borrowers with characteristics similar to the mortgages they are forced to repurchase.*
- *Although we do not have information on race, ethnicity, and income, we do know that Black and Hispanic borrowers have lower credit scores, higher LTV ratios, and higher DTI ratios than white borrowers, and loans with these characteristics are more apt to be repurchased.*
- *There have been significant government and GSE efforts to try to close the racial homeownership gap and make homeownership more accessible for lower-income families. . . Questionable repurchase requests will result in a tightening of the credit box for many of the borrowers these programs are intended to help.*

PROGRESS IN 2024

- **FHFA – Reps & Warrants/COVID Forbearance.** On 10/16**, FHFA announced Rep & Warrant Relief** related to forbearance granted by Congress due to COVID-19.
- **Freddie Mac – Indemnifications in Lieu of Repurchase.** On November 18, Freddie Mac announced a **Pilot** creating a fee-based repurchase alternative (indemnification) for performing loans, including waiving the indemnification fee for smaller lenders. **Fannie Mae** has also moved towards offering more indemnifications in lieu of repurchase demands as the year progressed.
  Loans Sold to Aggregators. Both Fannie Mae and Freddie Mac appear to be more open to permitting full participation by originating lenders in repurchase challenges on loans sold to aggregators

2023: Progress on a Better Approach to Repurchase Demands (Continued)

GOING FORWARD

While progress has been made, CHLA believes the GSEs should implement the following policies in 2024:

1. *More balance is needed in demanding repurchases, particularly for appraisals, which are subjective.*
2. *Fannie and Freddie should always offer an indemnification option for a performing loan.*
3. *The indemnification level should reflect risk of not demanding repurchase – i.e. less than 1 percent.*
4. *Aggregators should promptly inform lenders of repurchases and allow full participation in directly challenging repurchase demands.*

CHLA Policy Positions and Priorities

PURCHASE OF MORTGAGE LOANS TO BRING DOWN MORTGAGE RATES

- The Federal Reserve and the GSEs should purchase mortgage loans, to bring down rates.

FEDERAL HOUSING ADMINISTRATION (FHA)

- **End Life of Loan Premiums.** Revert to pre-2013 policy of ending premiums when loans hit 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 FHA condo approval process by granting DE-type approval authority and improve approval transparency.
- **Pay-scale comparability, flexible contracting authority, full Information Technology (IT) funding**.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GINNIE MAE)

- **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)

- **Restore Balance in Repurchase Policies.** Fannie Mae and Freddie Mac should offer indemnifications, based on risk, in lieu of repurchase demands for all defective loans - to protect lenders and consumers.
- **FHFA Should End GSE Conservatorships of Fannie and Freddie Under a True Utility Model.**

CHLA'S CONSUMER MORTGAGE BILL OF RIGHTS

1. The Right to Say No to Abusive Trigger Lead Solicitations.
2. The Right to Robust Competition in Mortgage Services Market.
3. The Right to Affordable Credit Report Pricing.
4. The Right to Robust Dual Compensation Consumer Protections.
5. The Right to Obtain a Mortgage Through a Qualified Mortgage Loan Originator.
6. The Right to Have Pricing Parity Requirements Apply to <u>All</u> Loan Originators.
7. The Right for All Borrowers to End MI Premiums When Loans Hit 78% LTV.

REGULATORY BALANCE FOR SMALLER IMBS

- **CFPB:** To comply with the Dodd-Frank requirement that all loan originators must be "qualified," the CFPB should require **<u>ALL</u>** loan originators at banks to meet SAFE Act licensing requirements, which are: (1) *Pass the SAFE Act exam, (2) Pass an <u>independent</u> criminal background check, (3) 20 hours of SAFE Act pre-licensing requirements, and (4) 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.
- **Streamline state exams of smaller IMBs.** CSBS should implement streamlined IMB multi-state exams.

PROTECT UNDERSERVED BORROWERS FROM IMPACT OF SITZER COURT CASE

- Federal mortgage programs should take action to ensure low down payment borrowers are not harmed.

Federal MORTGAGE PROGRAM LOAN FEES SHOULD ONLY BE BASED ON RISK

- Congress should **<u>not</u>** impose fees (like it did with the GSE 10 BP fee) to offset non-housing spending.

CHLA Policy Policy Positions and Priorities (Continued)

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

- CRA for IMBs is (1) not needed as IMBs far outperform banks in mortgages to minorities and other underserved borrowers, (2) not appropriate, as IMBs have no federal backing and actually bring capital into communities, (3) counterproductive, driving out IMBs, as CRA in Massachusetts has shown.

MONITOR ICE PURCHASE OF BLACK KNIGHT FOR CONSUMER ABUSES

- The CFPB should monitor practices of the combined Black Knight/ICE entity and take action against anti-consumer actions like junk (access) fees, one-way user fee charges, and tying.

CHLA One Year After the Merger with 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).

The merger strengthened CHLA in its long-time role as the distinctive voice and strong advocate on behalf of small and mid-sized independent mortgage banks (IMBs).

CHLA has always been a different kind of association - not top-down, but bottom-up. Priorities, initiatives, and actions are not dictated by Washington staff, but decided through a democratic participatory process. Any CHLA member can suggest a new idea, take the lead on an initiative, pen an op-ed, lead a presentation before a federal agency or Congress, and - most importantly - drive the direction that CHLA is heading.

A top priority for CHLA is to educate Washington policy makers about small and mid-sized IMBs through reports, letters to federal agencies and Congress, op-eds, webinars, and meetings with federal officials.

CHLA's other top priority is to aggressively fight for public policies that preserve IMBs' ability to lead the market in mortgage access to credit. CHLA's public policy advocacy is characterized by the following:

Initiatives. Since its founding 11 years ago, a hallmark of CHLA has been the introduction of initiatives that are important to IMBs. Examples include: (1) GSE victories that included stopping Wall Street Banks from gaining a GSE charter and using their securitization structure for private deals, and ending the profit sweep, (2) successfully challenging FHFA in 2020 when it tried to impose volume caps on mortgage loan categories, (3) introducing a Consumer Bill of rights to protect the consumers IMBs serve, and (4) most recently fighting for more balanced GSE repurchase policies, including advocating early on for a fair indemnification option.

Leadership. CHLA has been the acknowledged trailblazer in taking on challenging policy objectives that have required a sustained public advocacy campaign before ultimately succeeding – like Transitional Licensing, cutting FHA premiums, permanent G Fee parity, and challenging the ICE-Black Knight merger.

Persuasion. CHLA does not have a Political Action Committee (PAC) – because a PAC is not a substitute for (1) an advocacy agenda that focuses energies on winnable policy fights that make a difference for our IMB members, (2) a strong advocacy strategy, (3) solid policy justifications, and (4) building coalitions as needed.

CHLA's advocacy on specific policy issues is based on the following IMB-centric objectives:

- Preserving equitable secondary market access for smaller IMBs.
- Ensuring competition and consumer choice by preserving smaller IMBs.
- Promoting affordable mortgage loan options and balanced loss mitigation protections.
- Regulatory streamlining for smaller IMBs - while preserving consumer protections.
- Supporting FHA, GSE, VA, RHS, and Ginnie Mae policies that emphasize homeownership affordability.

CHLA welcomes like-minded IMBs to join our organization – and to join CHLA's cause of preserving and promoting the successful IMB model.

Joining CHLA also gives members unique direct access to top federal mortgage officials at our semi-annual DC fly-ins – and the opportunity to discuss challenges, issues and ideas with other like-minded IMBs.

To learn more about CHLA, visit our website at communitylender.org. If you are interested in becoming a member of CHLA, contact Scott Olson, CHLA's Executive Director, at scottolson@communitylender.org

NARRATIVE AND STATISTICS

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 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). This reduces risk.
- **IMBs are Not Mortgage Brokers.** IMBs close loans with their own funds - and are financially accountable for underwriting errors through FHA indemnifications and Fannie/Freddie 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 large bank priority. When many 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 and state mortgage regulations.

Significant Differences Exist between Small and Large IMBs

Smaller, community oriented IMBs differ from large IMBs (as well as from 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 fundamental differences between community-based small/mid-sized IMBs and mega-IMBs.

IMBs Originate over 80 Percent of Mortgage Loans

IMBs are <u>THE</u> dominant force in mortgage lending, originating 81% of all loans and 90% of FHA and VA loans (the critical programs for minorities, veterans, lower-income, and other underserved first-time homebuyers).

ALL MORTGAGE LOANS [81% Market Share]

- ***IMBs originate 81% of all mortgage loans, as of October 2023.***
  [Source: November 2023 Urban Institute Monthly Chartbook – page 12].

***FHA MORTGAGE LOANS* [88% Market Share]**

- ***The nonbank (IMB) share of FHA has increased from 57% in 2010 to 88% in 2023.***
  [See chart on page 20 of this report]

- ***"FHA mortgage insurance . . . makes credit available to borrowers whom the conventional market does not adequately serve, including first-time homebuyers, minorities, lower-income families and residents of underserved areas (central cities and rural areas)***
  [Source: FY 2023 Administration HUD Budget Appendix – page 578].

- ***82% of FHA loans are to first-time homebuyers, compared to 48% for the rest of the market.***
  [Source: FHA Annual Report for Fiscal Year 2023 - page 20].

***VA MORTGAGE LOANS* [90% Market Share]**

- ***The nonbank (IMB) share of VA mortgage loan origination is 90%, as of October 2023.***
  [Source: Ginnie Mae Global Markets Analysis Report, November 2023 – page 49].

- VA loans are 0% down mortgage loans for our nation's veterans and active-duty personnel.

***GINNIE MAE SECURITIES ISSUANCE* [91% Market Share]**

- ***The nonbank (IMB) share of Ginnie Mae issuance increased from 12% in 2010 to 91% in October 2023.*** *[See chart on page 21 of this report]*

- To some extent, this reflects the strong growth in the non-bank share of FHA, VA, and RHS loans over the last decade. It is also a result of many banks abandoning the correspondent loan business after the 2008 housing crisis, while IMBs increased their role 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* [73% Market Share]**

- ***Fannie Mae: Nonbanks (IMBs) originate 76% of Fannie Mae loans, as of October 2023.***
  [Source: November 2023 Urban Institute Monthly Chartbook – page 12]

  Freddie Mac: Nonbanks (IMBs) originate 71% of Freddie Mac loans, as of October 2023.
  [Source: November 2023 Urban Institute Monthly Chartbook – page 12]

IMBs Lead 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].
- That same 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:
  (1) The average credit score for IMB agency mortgage loans is 23 points lower than for bank loans.
  (2) The average LTV for IMB Ginnie Mae securitized loans is almost 3% higher than for bank loans.
  [Sources: November 2023 Urban Institute Monthly Chartbook – page 17 and 18]

FEDERAL HOUSING ADMINISTRATION (FHA) LOANS

- **IMBs originate 88% of FHA loans. In 2023, 84% 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.**
- **IMBs originate 90% of VA loans – zero down loans for veterans and active duty personnel.**

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.

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).

IMB Borrowers Enjoy Stronger Consumer Protections than Bank Borrowers

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 show that severe harm to borrowers of non-regulate 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.

Demolishing 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 15), 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 22 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.

Proliferation of Duplicative, Unnecessary Regulations on Smaller IMBs is Harmful to Consumers

Smaller IMBs do not have the economies of scale that larger lenders do in complying with regulatory requirements. Put simply, the somewhat fixed costs of reviewing and complying with new and existing regulations – including the need for outside legal counsel or regulatory consultants – becomes a much higher cost per loan for small IMBs with relatively smaller loan volume.

Therefore, in the same way that bank regulators streamline the scope and requirements of regulations for smaller banks, federal and state regulators of IMBs should do the same.

RECENTLY IMPLEMENTED REQUIREMENTS ON IMBS

GINNIE MAE

- New Risk-based Capital Requirements and heightened net worth and liquidity requirements were adopted by Ginnie Mae in October 2022

FHFA (FANNIE MAE and FREDDIE MAC)

- *New origination liquidity requirements and heightened net worth and liquidity requirements were adopted by FHFA in October 2022*

NOTE: Although CHLA did not agree with all the provisions in these new standards, CHLA commends the two agencies for working together on coordinated financial requirements.

STATES

- *New York adopted a CRA law in November 2021, which would apply to IMBs.*
- *Illinois adopted a CRA law in March 2021, which would apply to IMBs.*

FTC

- *The FTC Safeguards Rule requires non-bank financial institutions to develop and maintain a comprehensive security program to keep their customers' information safe. The law became effective June 2023.*

PROPOSED OR SUGGESTED REQUIREMENTS ON IMBS

CONFERENCE OF STATE BANK SUPERVISORS (CSBS)

- *The CSBS adopted Model State Regulatory Prudential Standards for Nonbank Mortgage Servicers in July 2021. CSBS is encouraging all 50 states to adopt these model standards.*

CONSUMER FINANCIAL PROTECTION BUREAU (CFPB)

- The CFPB has a pending Proposed Rule to create a Registry of IMB Offenders, which creates reporting requirements redundant with what is currently required by the NMLS.

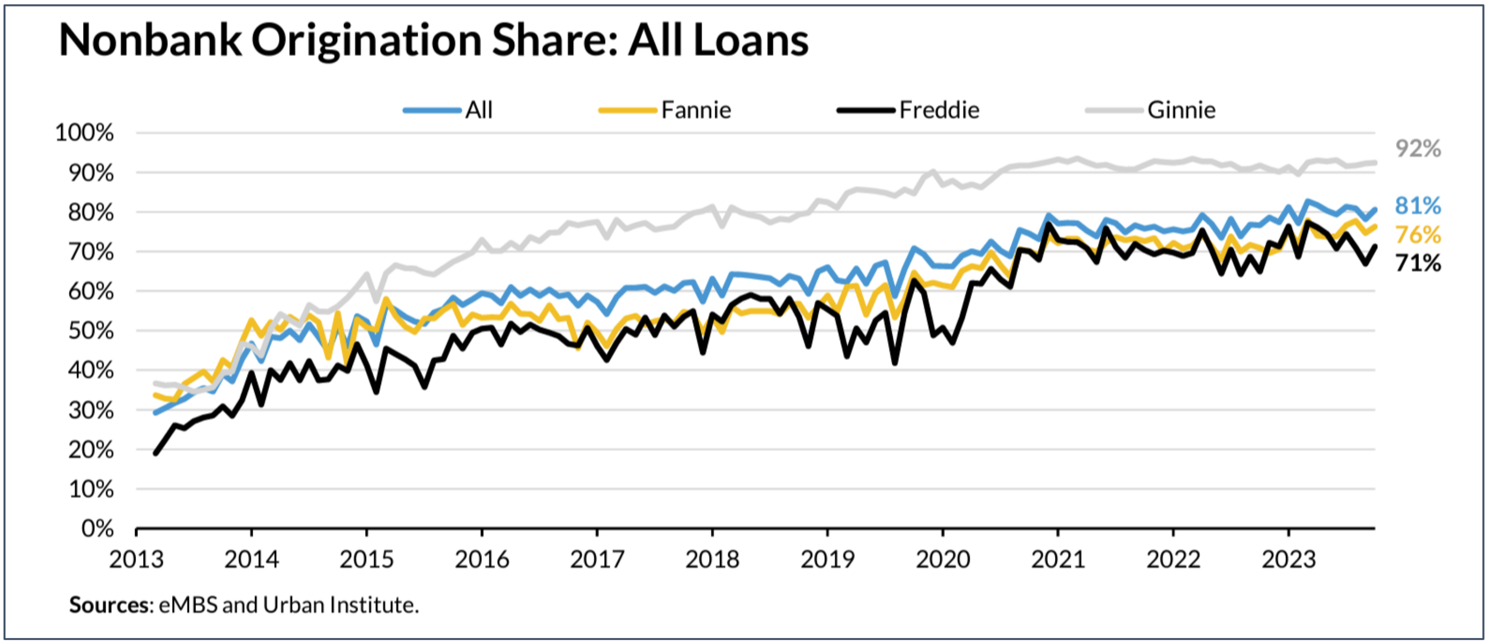
- The CFPB has a pending Proposed Rule to require all non-banks to submit all form contracts which limit consumer legal rights, which is unnecessary for IMBs, since mortgage lenders are barred from using arbitration or other similar limiting provisions.

FEDERAL HOUSING FINANCE AGENCY (FHFA)

- FHFA's February 2022 draft of its 2022 - 2026 Strategic Plan suggested FHFA might explore asking Congress for authority to specifically examine nonbank servicers.
- This suggestion was ultimately dropped in the final plan released in April 2022, but it signals a possible expansion of the number of agencies that could examine IMBs.

CHARTS

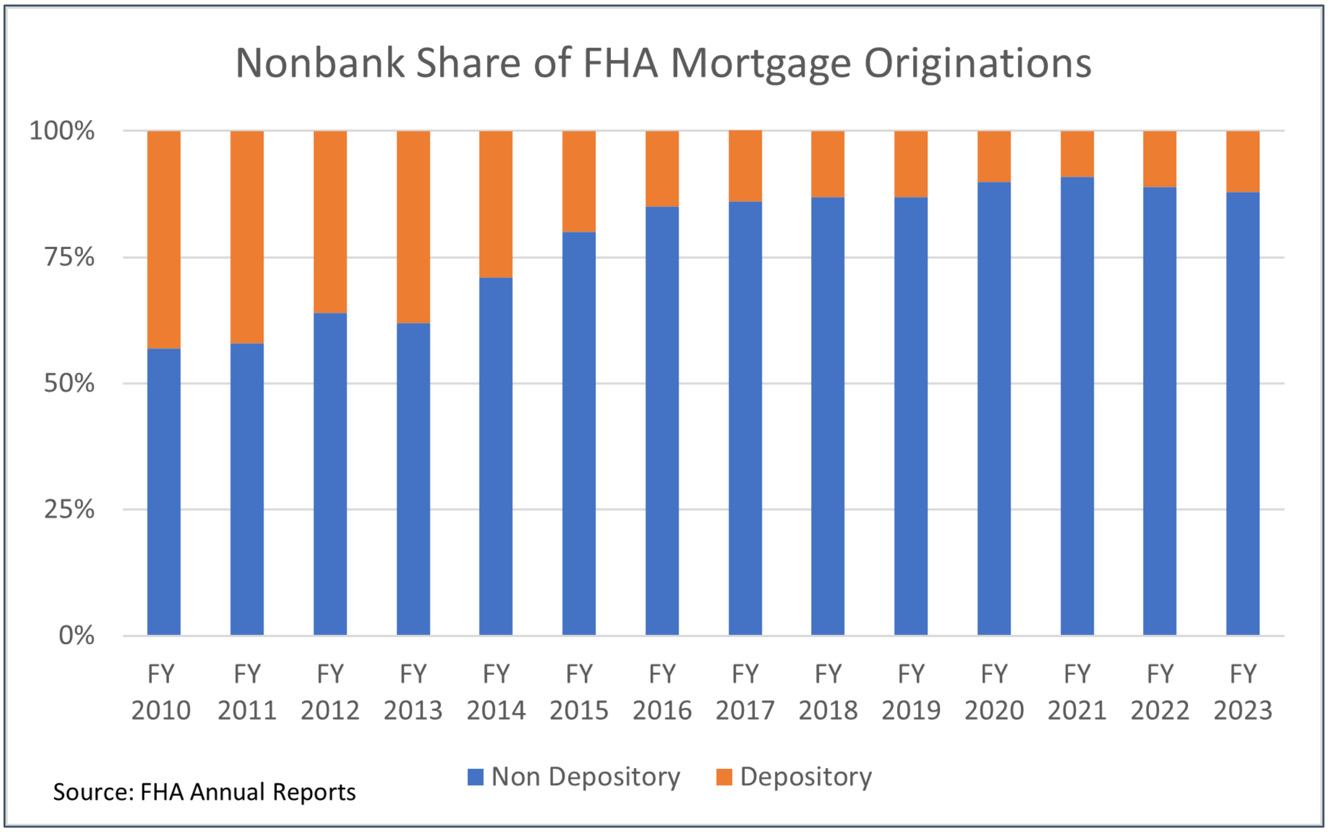
IMB SHARE OF THE MORTGAGE ORIGINATION MARKET



COMMUNITY HOME LENDERS of AMERICA

IMB SHARE OF THE FHA MARKET

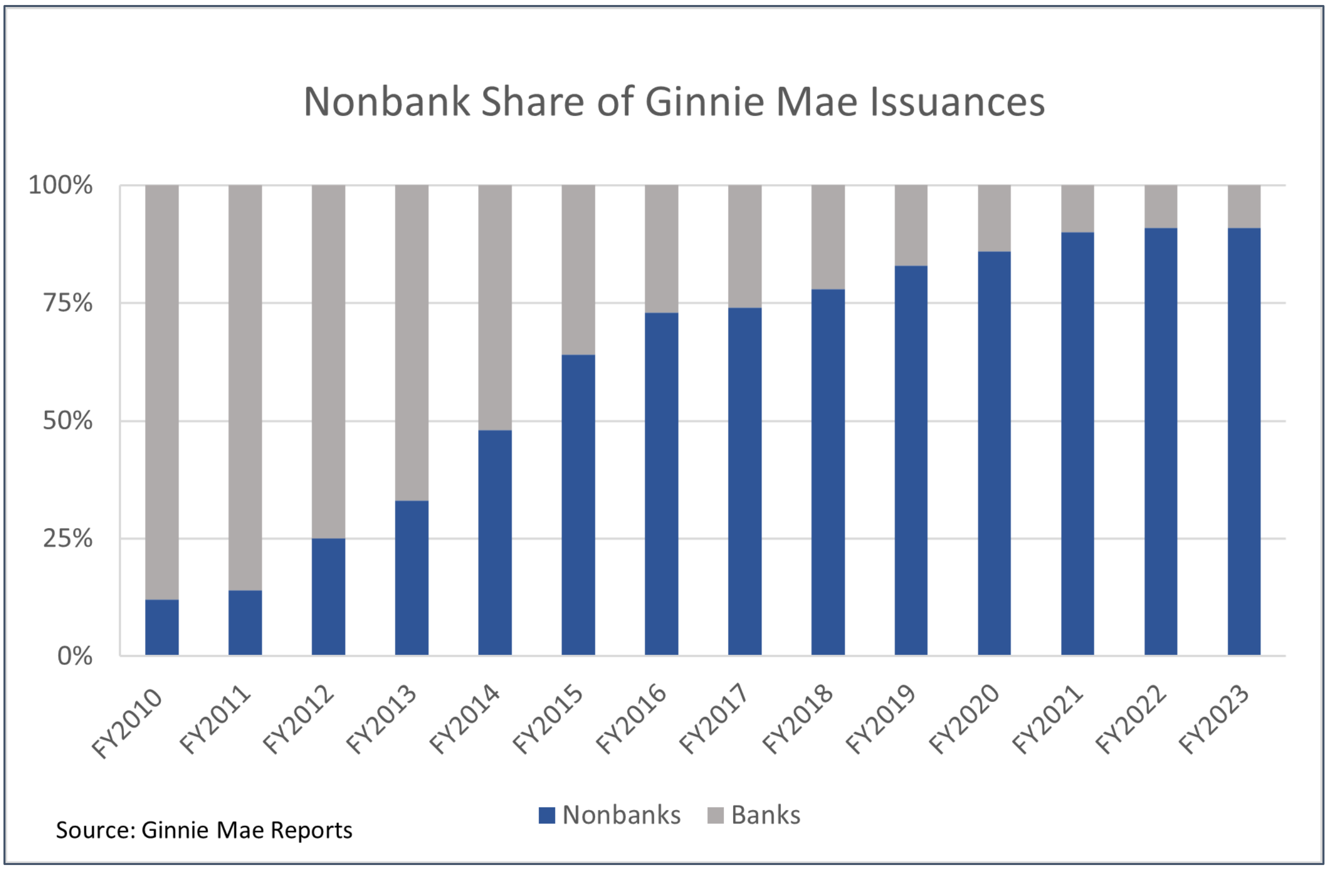
Nonbank Share of FHA Mortgage Originations Increased from 57% in 2010 to 88% in 2023



Source: FHA Annual Reports

IMB SHARE OF THE GINNIE MAE MARKET

Nonbank Ginnie Mae Issuances Increased from 12% in 2010 to 91% in October 2023



REGULATORY COMPARISON: NON-BANK MORTGAGE LENDERS VS. BANKS

Single Family Mortgage Loans

CONSUMER REGULATION

	NON-BANKS	BANKS
SAFE ACT: Mortgage Loan Originator Requirements	<u>Every</u> 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	IDENTICAL

	servicing requirements (except that some exemptions exist for servicers servicing fewer than 5,000 loans)	

FINANCIAL REGULATION
Mortgage Servicing Net Worth, Capital, and Liquidity Requirements

	NON-BANKS	**BANKS**
GINNIE MAE (GNMA)	* *Net Worth Requirement* - $2.5 million, plus 0.35% (35 basis points) of GNMA UPB, plus 0.25% of GSE and non-agency servicing. * *Liquidity Requirement*: 0.1% (10 basis points) of GNMA UPB, plus 0.07% of scheduled GSE UPB, plus 0.035% of actual GSE UPB, and 0.035% of non-agency UPB. Also, for Issuers >$1 billion UPB, additional 0.5% 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, must 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 0.35% of Ginnie Mae servicing, plus.25% of all other servicing obligations. * *Liquidity Requirement*: 0.035% (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 0.5% 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	* Federal banks are not

	can set forth its own requirements. * CSBS developed model prudential servicing standards for non-bank lender/servicers, comparable to FHFA.	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 Requirements and Examinations	* 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 the 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.