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Federal regulatory proposals that are reshaping the mortgage system

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The challenges presented by the wave of federal regulatory proposals that are reshaping the mortgage finance system made the summer of 2011 one of the busiest advocacy periods in the history of CAI. At stake is the health and marketability of the more than 24 million homes in community associations. CAI and our members, working through our Mortgage Matters Program, have been focused on three critical regulatory proposals; a proposed federal rule on transfer fees, Federal Housing Administration (FHA) condominium mortgage guidelines and Qualified Residential Mortgage Regulations. Each of these proposals as initially drafted had the potential to negatively impact community associations. To make matters more challenging, the financial reform process triggered more than 200 regulatory drafting exercises by a host of federal agencies on topics that include banking, insurance, hedge funds, mortgages, auto loans, credit cards and other financial services. In this flood of new regulations, it is difficult for any single industry to get their message through to lawmakers, but thanks to the work of CAI, our members and our allies, we have been making headway in shaping this important debate.

FHFA Transfer Fee Guidance

In late 2010 the Federal Housing Finance Agency (FHFA) issued a proposal that would have banned federally backed mortgages to any property in a community association with a deed-based transfer fee. Such fees are a common funding mechanism for community associations with up to 49 percent of associations using such fees to fund reserves, capital accounts or operations. If enacted as drafted, up to 11 million homes in community associations would have been unable to obtain mortgages. Thanks to an incredible effort by CAI members, the FHFA backed down from its initial proposal and issued a revised draft regulation that specifically excludes community deed-based transfer fees from the mortgage ban. The revised draft regulation is still pending, but FHFA's retreat on the deed-based transfer fees put CAI on the map as a major player in the mortgage reform debate.

FHA Condominium Guidelines

FHA issued new guidance in July in an effort to correct problems created by previous guidance on condominium requirements for FHA mortgages. FHA addressed longstanding issues raised by CAI such as allowing associations to impose rental restrictions, allowing for affordable housing units and added some flexibility for delinquencies. However, rather than completely fixing the issues with the program the new guidelines created a new set of challenges for condominium buyers seeking access to the more than thirty percent of all condominium mortgages FHA currently provides. Among the issues created by the new FHA requirements are:

*A costly fidelity bonding insurance for management companies, which is commercially impractical and in conflict with some state laws;

* A requirement that the submitter to FHA agree to keep FHA abreast of any conflict in the community and to assure FHA that a board will not take any action that might impact a borrowers ability to pay their mortgage;

* Inclusion of bank-owned properties in the assessment delinquency calculation; and

* An announcement that FHA will not approve any condominium project with a deed-based transfer fee, despite the Federal Housing Finance Agency's findings (noted above) that such fees benefit communities and homeowners.

Stepping up the pressure on FHA to engage in a more transparent rule making process, CAI members in key states set up Mortgage Matters Teams and met with members of the House Financial Services Committee and the Senate Banking Committee during the month of August. This grassroots activity is beginning to pay dividends; FHA has already backed down from the manager bonding requirements and is now indicating it may back off its current position on deed-based transfer fees. Although progress with FHA has been slow, it is adopting the policy positions advocated by CAI and our housing allies. Now that the debate is favoring CAI and our members, we will continue to step up our pressure on FHA and Congress to more quickly resolve the issues FHA is needlessly creating in the condominium market.

Mortgage Regulations (QRM/QM)

In August, CAI submitted more than 200 pages of comments to federal regulators on proposals to tighten mortgage lending standards and reshape commercial mortgage products. Working with a coalition of housing interests that include the National Association of Realtors, the National Association of Homebuilders and consumer groups, CAI denounced the stringent proposals that would have set mortgage standards so high as to exclude up to 70% of current borrowers. CAI praised a proposal that would require a lender to factor in association assessments in the loan qualification process as such fees are mandatory. However, CAI was critical of the proposal which would have required the lender to assume that any special assessment in place at the time of the loan qualification determination would continue for the life of the mortgage. The comment period on these regulations closed in August and revised regulations are expected to be released in late 2011 or the first quarter of 2012.

As we fight for our members, we will work to build new avenues of communication between CAI members, federal regulators and key members of Congress. Our success depends on the ability of every CAI member to respond to calls to action to make sure that our members can get access to fair and affordable mortgage products. The market is a fickle place, and any regulation or law that creates added costs or barriers for purchasing in a community association could result in a shift away from the community association model of housing which has dominated the markets for the last 30 years. Such a result would harm all CAI members. The good news is that we have demonstrated that when we make our voices heard, we can shape the debate and achieve positive

results in the face of big challenges.

As part of our ongoing Mortgage Matters Program, CAI is working to protect homeowners in community associations and to ensure access to fair and affordable mortgage products for all current and potential community association residents. You can follow our work and share your thoughts at www.caimortgagematters.org.

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