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Treasury proposes new mortgage origination commission (MOC)

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To address gaps in mortgage origination oversight, the Department of Treasury has issued a three-part proposal. In its March 31 release, Blueprint for a Modernized Financial Regulatory Structure, the Treasury recommended creating a federal Mortgage Origination Commission (MOC); making sure the Federal Reserve's sole responsibility is to draft regulations for national mortgage lending laws; and clarifying and enhancing enforcement authority for federal laws, especially Truth in Lending Act provisions. In addition, the Treasury also encourages states to improve regulation over mortgage brokers.

In its proposal for the MOC, the Treasury envisioned that the President would appoint a director - to a four- to six-year term - to chair a six-person board comprised of the principals (or their designees) of the Federal Reserve, OCC, OTS, FDIC, National Credit Union Administration and Conference of State Bank Supervisors. The MOC would develop and/or enforce uniform minimum licensing qualification standards for state mortgage market participants, including personal conduct and disciplinary history, minimum educational requirements, testing criteria and procedures, and appropriate license revocation standards. The MOC would also evaluate, rate and report on the adequacy of each state's system for licensing and regulation of participants in the mortgage origination process.

According to the Treasury, the structure of the MOC would incorporate some aspects of the structure and operations of the Appraisal Subcommittee (ASC) and perhaps even some current responsibilities of The Appraisal Foundation. The ASC does not oversee or regulate appraisers themselves, but rather, Congress created it to monitor the activities of The Appraisal Foundation. If the ASC finds that a particular state's appraiser regulation and certification program is inadequate, then, under the banking agencies' regulations, all appraisers in that state are no longer eligible to do appraisals for depository institutions.

"This draconian and un-calibrated authority is impractical, and it has not been used," Treasury wrote. "The MOC would be vested with broader and more calibrated authorities to set uniform minimum standards for, evaluate, and address weaknesses in, state systems."

"The Treasury Department has it right relative to the Appraisal Subcommittee's authority," said Bill Garber, the Appraisal Institute's director of Government and external relations. "The current system of oversight and enforcement is all of those things - draconian, un-calibrated, impractical -- and I would go so far as to say it is also ineffective. Decertification of a state appraisal board is not an effective enforcement tool, which is why we have suggested intermediate enforcement powers, as well as other broader reforms to the appraisal regulatory structure for several years on Capitol Hill. The Treasury recommendation in this area is some vindication of those concerns and ideas."

For the full Blueprint, visit www.treas.gov/offices/domestic-finance/regulatory-blueprint/. Specifically, pages 78-79.

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