Quicken Loans

1050 Woodward Ave. | Detroit, MI 48226

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Mr. John Ryan
President & CEO
Conference of State Bank Supervisors
1129 20th Street, NW, 9th Floor
Washington, DC 20036

Re: Proposed Prudential Standards for Nonbank Mortgage Servicers

Mr. Ryan:

Quicken Loans, LLC ("Quicken Loans") appreciates the opportunity to comment on the Conference of State Bank Supervisors' ("CSBS") proposed prudential standards for nonbank ("Independent Mortgage Bank" or "IMB") mortgage servicers. Quicken Loans commends the CSBS for its commitment to contemplating how state bank regulators should appropriately balance consumer protection, safety and soundness and regulatory burden.

Quicken Loans believes CSBS should use a data-driven method to clearly articulate why a framework of prudential standards for IMB servicers is needed and how that framework would materially enhance regulators' existing ability to ensure IMB servicer safety and soundness. Where appropriate, such a framework should also align state standards with properly calibrated and finalized federal standards. Additionally, CSBS should ensure that a final framework be uniformly adopted and consistently implemented by state regulators. Without such assurances, CSBS will incentivize regulatory conditions that risk increasing the cost of mortgage credit for prospective homeowners in communities across the nation.

Detroit-based Quicken Loans, the nation's largest home mortgage lender, enables the American Dream of homeownership and financial freedom through its obsession with an industry-leading, digital-driven client experience in closing mortgages across all 50 states. In late 2015, Quicken Loans introduced *Rocket Mortgage*, the first fully digital mortgage experience. Currently, 98% of all home loans originated by Quicken Loans utilize Rocket Mortgage Technology. Today, Quicken Loans and the Rock Family of Companies employs more than 19,000 full-time team members in Detroit's urban core. The company generates loan production from web centers located in Detroit, Cleveland and Phoenix and operates a centralized loan processing facility in Detroit. Quicken Loans has ranked in the top-30 of FORTUNE magazine's annual "100 Best Companies to Work For" 17 consecutive years. Quicken Loans is also ranked highest in the country for customer satisfaction for primary mortgage origination by J.D. Power for 11 consecutive years (2010-2020) and ranked highest in the country for customer satisfaction among all mortgage servicers for the past seven consecutive years (2014-2020).

I. GENERAL COMMENTS

Understanding Business Model Specific Systemic Risk

Since the credit crisis and passage of the Dodd-Frank Act, the quality of mortgage-related products, scope of consumer protections, and market conditions have drastically changed. There are fundamental differences in the systemic risk profiles and scope of operations between today's insured depository banks and IMB servicers. Understanding these differences is essential for any state regulator contemplating the adoption of additional bank-like prudential standards for IMB servicers.

State and federal bank regulators have a compelling interest in the safety and soundness of banks because banks maintain deposits insured by the U.S. taxpayer. Further, some of these institutions have been labeled systemically important financial institutions ("SIFI") by U.S. federal regulators. IMB servicers, on the other hand, serve a far narrower market function in facilitating residential mortgage loan administration and do so without the support of the U.S. taxpayer.

IMB business models, financial structures, and corporate governance vary widely. Every IMB's ability to access ample liquidity to withstand contractually obligated servicer advance requirements, margin calls (that occur from hedging various assets including the loan pipeline), and unforeseen market dynamics is different. As such, if regulators are concerned about individual companies that have recently appeared either close to needing emergency liquidity or unable to meet their financial covenants, a targeted oversight approach would be more appropriate than subjecting all IMB servicers to an entirely new regulatory regime. Importantly, if a poorly capitalized IMB servicer with insufficient liquidity cannot meet its contractual obligations, U.S. taxpayers will not have to bail to them out. That servicer will go out of business, execute widely adopted servicing transfer protocols, and take steps outlined in the U.S. bankruptcy code to ensure minimal market disruption. As such, it is entirely appropriate that regulators take a different approach to IMBs than they do to banks, whose failure does trigger support from the taxpayer.

In June 2020, the Director of the Federal Housing Finance Agency ("FHFA") testified to the Senate Banking Committee that FHFA's analysis of servicer capacity compared to early forbearance projections indicated servicers as a whole have more than ample liquidity, and that liquidity position has improved since March 2020.[1] In its November 2020 Financial Stability Report, the Federal Reserve noted actions by Ginnie Mae and FHFA, as well as macro-economic decisions by the Federal Reserve, further benefitted mortgage servicer liquidity positions through the second quarter.[2] Additionally, the Financial Stability and Oversight Council ("FSOC"), of which CSBS is a member, has not labeled a single IMB servicer as a SIFI even after its extensive review of nonbank mortgage servicing throughout 2020. As a whole, the industry continues to successfully manage elevated COVID-related forbearance levels without any dedicated taxpayer-funded liquidity facility in place. Simply put, there continues to be no evidence that IMB servicers pose any material adverse risk to the financial system.

IMB performance suggests the current extensive scope of IMB servicer regulation and oversight by state regulators, the Consumer Financial Protection Bureau ("CFPB"), Ginnie Mae, and FHFA (through Fannie Mae and Freddie Mac) is adequate to address consumer protection and systemic risk concerns. As such, the need for sweeping prudential regulatory standards remains unclear. Quicken Loans believes a much better approach to ensuring the strength of IMB servicers would be for CSBS to recommend a uniform approach to how regulators can strengthen overall market liquidity.

[1] Calabria, Mark. "Written Testimony: Oversight of Housing Regulators." *Senate Committee of Banking, Housing, and Urban Affairs*, 9 June 2020, https://www.banking.senate.gov/imo/media/doc/Calabria%20Testimony%206-9-203.pdf

[2] Federal Reserve. "Financial Stability Report." *Board of Governors of the Federal Reserve System*, November 2020, https://www.federalreserve.gov/publications/files/financial-stability-report-20201109.pdf

Ensuring Framework Alignment, Uniform Adoption, and Consistent Implementation
If CSBS finalizes appropriate baseline and enhanced prudential regulatory standards for states to consider adopting, Quicken Loans believes alignment between relevant federal and state standards is essential. While alignment is paramount, Quicken Loans does not support all relevant federal and state standards that are either currently in effect or being contemplated. In fact, at the time CSBS released its proposed prudential standards for IMB servicers, several critical standards and proposals at FHFA, Ginnie Mae, and CFPB that are of particular relevance to both the Baseline and Enhanced Standards are not finalized and may still go through Administrative Procedure Act (APA) rulemaking. Quicken Loans believes CSBS should not finalize its proposal until all relevant federal standards are effective.

In addition to pursuing certain alignment, CSBS should create incentives for all states to adopt the CSBS framework. Specifically, Quicken Loans recommends CSBS consider cross-market collaboration to craft model legislation and/or regulations as the baseline for states to consider. Using model legislation and regulations ensures states remain consistent with each other as the legislation is passed and regulations are adopted, which incentivizes broad adoption. This is particularly important for IMB servicers who will be subject to unnecessary and overly burdensome compliance obligations if inconsistent or conflicting prudential standards are set by states.

Quicken Loans recommends CSBS clearly articulate implementation guidance and pursue a streamlined examination process for all states. Quicken Loans looks forward to working with CSBS as it contemplates details around the “one company, one exam” concept, and believes a streamlined process for IMB servicer examination is in the best interest of all market participants and state regulators. Appropriate alignment incentivized broad adoption, clear implementation guidance, and a streamlined examination process will avoid a patchwork landscape of inconsistent, overly complex, and often duplicative regulatory regime that will be needlessly burdensome for IMB servicers.

Lastly, Quicken Loans encourages CSBS to establish firm implementation timeline guidance for states. A period of 18 months is likely an appropriate window for baseline standards and an additional 12 months is likely appropriate for any enhanced standards that are ultimately finalized.

II. RECOMMENDATIONS ON BASELINE STANDARDS

Coverage and Applicability
Quicken Loans does not believe a de minimus threshold for applicability should be considered. Prudential standards that exempt a subset of IMB servicers from having to comply with the Baseline regulatory framework being contemplated undermines the entire purpose of CSBS’s efforts and may create regulatory silos that prevent state regulators from gaining insights into the segments of the market where significant risk may actually lie. Further, a de minimus threshold risks creating an unlevel compliance playing field, which can increase and/or incent risky market behavior.

Capital and Liquidity
Quicken Loans appreciates CSBS’s intent to align capital and liquidity standards with FHFA’s Minimum Eligibility Requirements for Single-Family Seller/Servicers. It is critical to note that FHFA announced it will be re-proposing those financial eligibility requirements. Quicken Loans believes significant adjustments are necessary ahead of any reproposed minimum eligibility standards being finalized. On a fundamental

level, state regulatory agencies can only gain a holistic understanding of IMB servicer liquidity if FHFA takes a comprehensive approach to accounting for allowable assets.

Quicken Loans strongly opposes the adoption of any framework that includes standards that remove unused and available portions of committed servicing advance lines of credit from counting as allowable assets for liquidity. Currently, all servicing asset related lines are subject to an adjustment by banks calibrated to a level where lenders are protected from incurring losses. FHFA's intent to remove servicer advance credit from the allowable assets (simply because those lines may be withdrawn in periods of economic stress) is flawed. These assets are repriced by lenders using data-driven methods to reflect current market conditions. Further, these credit facilities are contractually committed. It defeats the purpose of requiring sufficient credit liquidity overall if there is no trust the liquidity will be available as agreed upon or when needed.

Instead, Quicken Loans believes CSBS should push regulators to recognize Seller/Servicer liquidity in a holistic manner. FHFA should expand the definition for allowable assets for liquidity to allow servicers to include committed secured and unsecured funding facilities such as Mortgage Servicing Right and Unsecured Revolvers. Further, allowable assets should also include self-funding of mortgage loans. Self-funding results in unencumbered, high quality, liquid mortgage assets on servicers' balance sheets. Entities should not be penalized for choosing to self-fund such assets in order to reduce interest expenses.

Quicken Loans also opposes revisions to the current minimum liquidity requirements that Agency nonperforming loans ("NPL") greater than 6 percent carry an additional NPL charge of 200 basis points. Under FHFA's proposal, the NPL threshold would be revised to 4 percent and the incremental NPL charge is increased to 300 basis points. The procyclicality of the proposed changes would inhibit institutions by requiring them to increase their liquidity position after delinquency rates surpass a certain threshold. In other words, under FHFA's proposed standards, nondepository Seller/Servicers would be forced to increase their liquid assets, but be unable to actually use their liquidity when market conditions dictate they need it most. This structure will invariably result in substantial negative carry for servicers, and unnecessarily impose capacity constraints on IMBs during times of significant market stress. State regulators should understand that it is precisely in times of stress when servicers should be able to tap into their liquidity. Quicken Loans encourages CSBS to remove the NPL requirement from its minimum liquidity requirement and instead focus on aligning with strong, properly calibrated base liquidity requirements.

Servicing Transfers

Quicken Loans supports CSBS's proposed alignment of servicing transfers with the CFPB's *Compliance Bulletin and Policy Guidance: Mortgage Servicing Transfers* and FHFA's *Advisory Bulletin 2014-06: Mortgage Servicing Transfers*. Residential mortgage servicers have already built technology and implemented procedures to ensure consistent compliance with these established guidelines. Additionally, the proposed alignment will ensure state regulators have clarity around the existing requirements governing data mapping, validation, and compatibility. Together, these well established and widely recognized standards adequately facilitate the safe and reliable transfer of information during mortgage service transfers.

Risk Management

Quicken Loans has existing robust processes and models in place to measure, monitor, and mitigate financial and other risks. Quicken Loans recommends CSBS should take a targeted approach to subjecting companies to additional risk mitigation disclosure requirements. More specifically, only companies who fail to adequately comply with Baseline Standards as determined through state examination or regulatory reports should be required to further develop and disclose their risk mitigation framework to regulators as a corrective measure to ensure future compliance.

Data Standards

Quicken Loans supports CSBS's proposed alignment of data and documentation standards with the Mortgage Servicing Rules under the Real Estate Settlement Procedures Act ("RESPA", Regulation X) and the Truth in Lending Act ("TILA", Regulation Z). Expanding the applicability of the Mortgage Servicing Rules to all IMB servicers would enhance consumer protection and facilitate a level compliance playing field for IMB servicers operating within a given state. A patchwork of differing standards adds complexity without necessarily improving overall servicer compliance or consumer protections.

Data Protection

Quicken Loans acknowledges *substantial* portions of IMB servicer operations are data dependent. Hence, information security is paramount to protecting customer information and privacy, which includes maintaining appropriate protection controls to mitigate risks of harm caused by potential cyber-threats, security breaches, and identity theft. However, most servicers are already required to establish and maintain robust data policies that meet, or in many cases exceed, the CSBS's Baseline Standard regarding data protection.

Although IMBs operate under different regulatory requirements than banks or other depository institutions, they are still subject to regulation under the federal consumer protection laws administered by the FTC as well as federal consumer protection laws regarding data protection and privacy[3] such as the Gramm-Leach Bliley Act ("GLBA").[4] The GLBA is a federal law that specifies how financial institutions, including some non-bank financial institutions, protect the security and confidentiality of consumer personal information.[5] Key provisions of GLBA govern how these institutions implement administrative, technical, and physical safeguards to ensure customer records are secure and protected against any anticipated threats and/or unauthorized access.[6] Moreover, financial institutions must inform and explain the policies to their customers as it relates to safeguarding sensitive data.[7] These provisions of GLBA are enforced by the Federal Trade Commission ("FTC"), CFPB, the federal banking agencies, the SEC, and the Commodity Futures Trading Commission ("CFTC").

[3] To the extent that a consumer fintech company/provider is providing services to a bank, the services provided are subject to the third-party oversight framework imposed by banking regulators under the Banking Services Company Act.

[4] Public Law No. 106-102 [15 U.S.C. Ch. 94]. Also known as the *Financial Services Modernization Act of 1999*.

[5] Financial institutions for purposes of GLBA include but are not limited to companies that offer consumer financial products or services like loans, financial or investment advice, or insurance.

[6] 15 U.S.C. § 6801(b)

[7] Id. § 6803(c)(3)

To be compliant with GLBA, financial institutions must also apply specific protections to customers' personal data in accordance with the institution's own data security plan. To implement GLBA, the FTC set forth the primary information security provisions in its Safeguards Rule, which requires financial institutions to assess and develop a documented security plan that describes the company's program to protect customer information, including the following areas specifically important to information security: employee management and training, information systems, and detecting and managing system failures.[8] The intent of the GLBA information security requirements in the Safeguards Rule is to protect consumers and reduce reputational damage caused by unauthorized sharing or loss of private customer data.

In addition, there are efforts underway at the state level to regulate consumer-authorized data aggregation and use, including pending legislation. However, we believe state-by-state regulation, which would be more cumbersome and costly to comply with as compared with regulation by a single federal regulator, would not be workable given the complexity of data issues at hand. Servicers are already subject to heavy regulation between state cyber-security laws and GLBA. Layering another compliance framework in this area would be both duplicative and difficult for companies to reconcile with respect to additional requirements and documentation, and ultimately obfuscates the goal and purpose of data protection.

While data security concerns will remain an important issue, the Safeguards Rule appropriately addresses such concerns. To the extent that any additional regulation of data protection is necessary, Quicken Loans recommends that it be done at the federal level through legislation to ensure equivalent treatment in the non-depository sector.

Corporate Governance

Quicken Loans supports CSBS's proposed alignment with Ginnie Mae audit standards. The requirements set forth for maintaining Ginnie Mae Issuer status are comprehensive and ensure IMB servicers have sound corporate governance frameworks in place. Additionally, as a leading Fannie Mae and Freddie Mac Seller/Servicer and Ginnie Mae Issuer, Quicken Loans submits expanded quarterly Mortgage Call Reports ("MCR") which provide regulators with detailed financial and operational data. Quicken Loans does not believe IMB servicers who are compliant with the Ginnie Mae audit standards and required to submit enhanced MCRs should also be required to have a full financial statement audit conducted by an unspecified, additional third-party accountant.

Further, it is unclear what compelling consumer protection or safety and soundness concerns are addressed by requiring IMB servicer boards of directors to disclose to state bank regulators their companies' reputational, culture, and strategic interests, or standards for acceptable employee behavior. Reputational, cultural, and strategic interests are unique to each firm, and disclosure of employee standards would be duplicative of existing laws governing workplace conduct.

Change of Ownership and Control

Quicken Loans encourages CSBS to recommend change of ownership and control requirements be both facilitated through and aligned with requirements set forth by the Nationwide Mortgage Licensing System ("NMLS"). Further, such requirements should also be limited to the purpose of notifying state regulators as opposed to seeking their approval for any changes. Leveraging NMLS for IMB servicer change of

[8] 15 U.S.C. §§ 6801, 6805(b); 16 C.F.R. Parts 314.3 and 314.4

ownership and control notification will allow regulators to efficiently evaluate the financial capacity and management metrics from the other Baseline Standards being contemplated. Lastly, change of ownership and control requirements should only be applicable to privately held entities given the extensive financial disclosure requirements publicly traded companies are already subject to.

III. RECOMMENDATIONS ON ENHANCED STANDARDS

Enhanced Capital and Liquidity Requirements

If states choose to adopt CSBS's final proposal, an estimated eight IMB servicers will be required to develop and disclose their methodologies of determining and monitoring the capital needs of their entire firms. However, much of this information is already available to state regulators. Information around the composition of a company's servicing portfolio and different loan types is adequately captured in expanded quarterly MCRs, the Mortgage Banking Financial Reporting Form ("MBFRF"), and in state examinations. Additionally, the proposed disclosure of a liquidity risk management framework that encompasses cash flow projection analysis, a diversified funding strategy, stress testing, and sound contingency funding plans is inappropriate. A framework with such proprietary information would provide few truly germane insights to state regulators that have adopted other components of CSBS's proposed standards.

Stress Testing

Quicken Loans strongly urges CSBS to seek alignment with Ginnie Mae stress testing standards once they are recalibrated and finalized – as opposed to encouraging individual states to develop their own stress tests. Any misalignment between federal and state stress testing standards will create a patchwork of inconsistently calibrated tests among dozens of state-based regulators resulting in a cumbersome and burdensome compliance regime for IMBs. This approach will also result in inconsistent risk insights and lead to misinformed policy that could adversely affect consumers.

Quicken Loans has taken a deliberate, data-driven approach to sustainably building ample liquidity resources for 35 years. Throughout the COVID-19 pandemic, Quicken Loans has remained highly liquid despite elevated forbearance demand. According to Moody's Sector In-Depth report from September 2020, Quicken Loans (Ba1 Stable) is well positioned to meet advanced obligations in a highly adverse stress scenario with its current financing facilities and unrestricted cash.[9] Specifically, under Moody's 12-month adverse market scenario using projected forbearance levels over 100 percent higher than today's levels, Quicken Loans' maximum advance obligations in August of 2021 would be around $700 million. Rocket Companies' latest quarterly earnings report shows the company, most of which is represented by Quicken Loans, has roughly $6.9 billion in available liquidity – more than enough liquidity to operate safely and soundly.[10] As such, from a financial perspective holistically considering profitability, capital adequacy and leverage, asset quality, and cash flow and liquidity, Quicken Loans is investment grade (Baa2) and has ample liquidity to operate.[11] It is absolutely critical that CSBS and state regulators consider individual company positioning before subjecting all market participants to additional regulation.

[9] Moody's Investor Service, "Sector In-Depth. Residential Mortgage Servicers" *Moody's*, September 2020.
[10] Form-10Q, "Rocket Companies Inc." Third Quarter, 2020.
[11] Moody's Credit Opinion, "Quicken Loans" *Moody's*, September 29, 2020.

As one of Ginnie Mae's largest and highest quality non-depository Issuers and a participant in regular Issuer liquidity meetings, Quicken Loans remains committed to working with Ginnie Mae to help better understand the complexities of individual Issuer financial performance and capacity to weather adverse market events. In August 2019, Ginnie Mae solicited stakeholder feedback on a proposed stress testing framework, and based upon that feedback, it continues to develop policy and tools to evaluate and address counterparty risk. Quicken Loans provided substantive recommendations to Ginnie Mae on how to recalibrate its early framework by enhancing overall transparency, improving data quality, and disclosing detailed models to ensure modern-day market assumptions are in place. Quicken Loans believes a collaborative approach to developing a stress testing framework will result in Ginnie Mae building a robust tool that yields predictive and meaningful risk insights. If CSBS explicitly aligns with Ginnie Mae, then state regulators can also gain these valuable insights. Further, a uniform stress testing standard can help state regulators identify key metrics and unique factors to consistently detect companies that may need further attention.

Finally, Quicken Loans believes CSBS needs to make absolutely clear that "Complex Servicers" capital and liquidity requirements will not be based upon stress test results nor amended because of stress test results. When finalized, Ginnie Mae stress tests should be treated as one of several existing tools state regulators use to evaluate IMB servicers.

Living Wills, Recovery and Resolution Planning

After the credit crisis, Dodd-Frank imposed specific living will requirements on banks and SIFIs with assets greater than $50 billion. IMB servicers do not hold any deposits that are FDIC-insured. It is a deeply flawed regulatory approach to impose living wills and recovery and resolution planning requirements originally designed for the largest banks in the global financial system on IMB servicers. Quicken Loans strongly recommends CSBS remove these components from the Enhanced Standards.

Living wills and recovery and resolution planning would not materially enhance any state regulator's ability to ensure IMB servicer compliance with existing laws and regulations. Nor would such requirements provide additional protections to consumers should an IMB servicer fail. Today's widely adopted servicing transfer procedures coupled with detailed provisions in the existing bankruptcy code (which state regulators already have insight into) are sufficient to achieve the interests of state bank regulators.

Instead, CSBS should encourage states to develop information sharing Memorandums of Understanding ("MOUs") with Ginnie Mae and CFPB to understand insights gained from Issuer liquidity meetings and the widely adopted protocols and technology in place to transfer servicing. This would allow states to understand an entity's business continuity positioning – the actual capacity to withstand significant financial hardship and ability to absorb MSR portfolios. Further, such action by CSBS would avoid placing an entirely new, complex, and burdensome regulatory regime on an industry that functions as an intermediary between consumers and investors and maintains a significantly different risk profile than depository institutions.

IV. CONCLUSION

In summary, Quicken Loans recommends that CSBS:

- Use a data driven approach to justify the need for a framework of prudential regulation;
- Recommend a uniform approach for how regulators can strengthen market liquidity;
- Align state standards with properly calibrated and finalized federal standards where appropriate;
- Remove regulatory categories that are duplicative with existing laws and practices;

- Ensure any finalized framework be uniformly adopted and consistently implemented;
- Oppose a de minimus threshold for applicability;
- Encourage regulators to recognize Seller/Servicer liquidity holistically;
- Remove the NPL requirement from its minimum liquidity requirement and align with strong, properly calibrated base liquidity requirements;
- Clarify the relationship between capital and liquidity and stress testing; and
- Remove living wills, resolution and recovery planning components from the Enhanced Standards and encourage greater information sharing around business continuity insights.

Quicken Loans looks forward to continued work with CSBS as it considers reforms to the state regulatory landscape for IMB servicers. Should you have any further questions, please contact Chrissi Johnson at (313)-373-0036 or at chrissijohnson@rockcentraldetroit.com.

Sincerely,

Bob Walters
President and Chief Operating Officer
Quicken Loans, LLC