NAR Issue Summaries

Conventional Residential Lending / Credit Policy

NAR Committee:

Conventional Financing and Policy Committee

What is the fundamental issue?

The housing and mortgage markets have implemented a number of corrections in response to abusive lending, poor underwriting, and a serious recession like the ability to repay rule and capital standards. The result has been much stronger and responsible underwriting rules for the market, but access to mortgage credit remains limited for some segments of the market relative to historic norms. New policies are being debated within the regulatory agencies of modifying the credit box to help traditionally underserved communities.

I am a real estate professional. What does this mean for my business?

Certain consumer segments of local housing markets currently suffer from historically tight underwriting criteria and unnecessary lender overlays. In some cases, unless buyers have very good credit, policies adopted by the lending and credit reporting industries can make it very difficult for them to be approved for a mortgage. Fannie Mae, Freddie Mac and federal regulators (e.g. credit scoring, downpayment requirements, rules impacting mortgage liquidity) also affect mortgage capital availability as well as the homebuyers' ability to qualify for a mortgage, which have been tightened since 2018.

NAR Policy:

NAR supports the general principle that all mortgage originators should act in “good faith and with fair dealings” in a transaction and treat all parties honestly. NAR’s Code of Ethics already imposes a similar requirement on REALTORS®, who are required to treat everyone in the transaction honestly.Read NAR's Responsible Lending Policy.

The credit and lending communities and federal regulators should reassess the entire credit structure and look for ways to increase the availability of credit to qualified borrowers who are good credit risks. The inadvertent response to the "risk layering" inherent in some mortgage products (e.g. no doc, balloon, negative amortization, or "teaser rate" mortgages) has been "safety layering" in certain consumer segments where so many safeguards are being imposed that there is little risk to making new loans.

The current book of business at the GSEs and FHA is strong by historical standards. NAR believes that overlays on certain loans are the result of excessively tight underwriting, not sound business practices. The GSEs and FHA have a public mission to provide mortgage liquidity to qualified homebuyers, including low- and moderate-income families and first-time homebuyers. This mission is being impaired by limits on the availability of credit by them and the originator community. NAR believes a reassessment of these policies will not only help well-qualified potential borrowers, but also the entire housing market.

Furthermore, NAR believes that homeownership is an integral part of the American Dream that shouldn't be out of reach for low-income, rural and minority borrowers who lack access to traditional forms of credit. Unfortunately, many responsible Americans with "thin" credit files have been kept out of the housing market. Thus, NAR supports alternative credit scoring models aimed to responsibly expand mortgage credit for millions of hardworking families.

Additionally, given the increased dependence on credit reports by creditors, employers, insurers and law enforcement, NAR believes Americans should not be penalized by mistakes in their credit reports. Unfortunately, inaccurate credit reports have denied access to mortgage credit or have raised the cost of credit for many prospective borrowers. NAR believes that expanded access to free consumer reports and credit scores will help ensure their credit information is accurate. Moreover, NAR believes that individuals, families and students who have been victimized by unfair, deceptive or abusive acts or practices should not penalized by the malicious acts of others.

Opposition Arguments:

Opponents of NAR policy believe that creditworthy borrowers currently have access to affordable credit. They believe tighter lending standards have deterred individuals that do not have an ability to repay a loan from obtaining a mortgage. Therefore, they believe these tighter lending standards will prevent another financial crisis.

Legislative/Regulatory Status/Outlook

NAR has distributed its Credit Policy and met with industry groups and regulators to emphasize the importance of reasonable underwriting policies. **In the current Congress**, NAR supports H.R.4112 – the "Clarity in Credit Score Formation Act of 2021" introduced by Representative Lynch (D-MA). H.R. 4112 would amend the Fair Credit Reporting Act to provide the Consumer Financial Protection Bureau (CFPB) with clear oversight credit scoring models.

The regulators, including FHFA in partnership with the GSEs, have been looking at new ways to underwrite consumers and help borrowers with thin credit files, including an announcement that rental history may be included when underwriting consumers. Additional reforms to credit scoring models and credit underwriting are also in the works.

In previous Congresses, NAR supported the following credit scoring and credit reporting bills:

H.R. 3755, the "Comprehensive Consumer Credit Reporting Reform Act of 2017" (Waters, D-CA). The legislation enhanced protections for consumers from fraud and identity theft related to the breach and addresses major flaws with the existing consumer credit reporting system by making changes that would enhance consumers' rights, create more transparency over the consumer reporting and credit scoring process. It would also increase the accountability of credit reporting agencies, furnishers, and companies that develop credit scoring models. While Chairwoman Waters has yet to reintroduce the "Comprehensive Consumer Credit Reporting Reform Act" into this Congressional session, her committee has held hearings featuring the legislation. See https://financialservices.house.gov/calendar/eventsingle.aspx?

EventID=402343.

S. 1828, the "Credit Access and Inclusion Act" (Scott, R-SC). S. 1828 would help individuals achieve the American Dream by amending the Federal Fair Credit Reporting Act to allow providers like gas, electric and telecommunication companies to report consumers' payment histories to credit reporting agencies.

H.R. 123, the "FHA Alternative Credit Pilot Program Reauthorization Act" (Green, D-TX).H.R. 123 would help many households achieve the American Dream. Specifically, it amends the National Housing Act to extend from 5 years to 14 years the pilot program to establish an automated process for providing alternative credit rating information for prospective borrowers who have insufficient credit histories.

Current Legislation/Regulation (bill number or regulation)

H.R.4112 – the "Clarity in Credit Score Formation Act of 2021"

8/11/21 - FHFA Announces Inclusion of Rental Payment History in Fannie Mae's Underwriting Process

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