Where did summer go? It seems as if it were just spring, and then suddenly it was time for our annual conference, and now that’s well past and fall is upon us. Vacation season is over, the school year is in full swing, and we’re all busy at work. Next thing we know the holiday season will be here.

Speaking of our annual conference...

It was great to see so many of you in person again in Indianapolis. While attendance was slightly below our pre-pandemic norm, it exceeded our expectations, particularly for regulators, with total attendance of about 275. I’d like to thank our Conference Co-Chairs Rod Carnes and Ellena Meier, and of course our Executive Director, David Saunders, for their efforts in making it happen. We were able to hold a full, four-day conference (including Monday’s CSBS sessions). Next year we’ll be in Baltimore—my city!—right smack on the Inner Harbor waterfront. I’m sure it sounds as if I’m bragging, or promoting my state, but I think it’s going to be an outstanding location. We’ve already started reviewing the results of the attendee survey taken after this year’s conference. It may sound cliché when I say that we value your input, but it’s true—we really do consider the survey results when planning our next conference. So, mark your calendars for August 7-10, 2023, and plan on being there!

AARMR Committees

During the conference, we discussed our updated committee structure. There are four committees in particular for which we would welcome volunteers:

Communications Committee – this new committee promotes the effective and timely exchange of information among the states, including soliciting information for
From the President (continued)

the AARMR newsletter and overseeing the regulator all state calls;

**Education Committee** - develops and conducts education opportunities dealing with mortgage examination, licensing, compliance, fraud, federal and state initiatives, and other areas of concern for state regulators and their examiners and investigators;

**Legislation & Policy Committee** - acts as a legislative, regulatory, and litigation information clearinghouse for AARMR members. The Committee drafts written comments to proposed rules, regulations, and legislation and distributes information regarding relevant proposed policies, rulemaking or proposed or enacted legislation.

If you are a regulator interested on serving on one of these committees, or if there is someone in your office who you would like to recommend, please contact David Saunders or me (clifford.charland@maryland.gov). The Communications Committee and Emerging Issues Committee, in particular, could use your help, though we’re happy to hear from volunteers for any of these committees. As they say, “Many hands make light work,” so we’d be glad to find a place for you.

Serving on an AARMR committee is also a great way to get to know AARMR’s leadership and to grow your personal network of fellow regulators. You can find more information about AARMR’s committees at [www.aarmr.org/committees](http://www.aarmr.org/committees).

**Monthly News of Interest**

While I’m on the topic of committees: Have you been reading our monthly compilation of mortgage news articles? Our Communications Committee chair, Doug Schneider of the Oregon Division of Financial Regulation, has been sending this out. I don’t know about you, but there aren’t enough hours in the day for me to scour so many sources for news that is relevant to me as a regulator or to our Affiliate Members in the industry. I thank Doug profusely for doing my homework for me! I hope all of you are getting as much out of this new resource as I am.

**Industry Advisory Council**

If you haven’t heard already, Katy Ryan, a partner at Buckley LLP, is the new chair of our Industry Advisory Council (IAC). I’ve long believed that we as regulators can be more effective in protecting our consumers when we maintain a healthy, open dialogue with the mortgage industry. Thus, I consider the IAC to be a great asset to AARMR. With the IAC’s encouragement, AARMR issued a “best practices” document regarding remote work earlier this year; it was intended to allow states that are considering legislation or regulation permitting remote work to see how other states address the issue, and, if desired, to show legislators that other states are allowing remote work under a common set of guidelines. During our conference in August, the AARMR Board of Directors met with the IAC, and Katy shared a number of industry concerns that we’ll be looking at in the coming months.
Training

One of AARMR’s primary functions has always been to provide training for regulators. Traditionally, we’ve held in-person schools each spring and fall. Needless to say, the pandemic forced us to change that approach. In February, we hosted our Virtual Financial Statement Analysis Training for state examiners, and attendance was great. In light of that, we’re now looking at offering virtual training in addition to our in-person schools. We see value in both. The in-person schools allow attendees to get to know some of their peers from around the country, and to discover new ways of approaching the work they do; that “networking” can be as valuable as the subject matter being taught. On the other hand, virtual training allows AARMR to reach a much larger audience, and to do so at a greatly reduced cost to our member agencies. We see it as a way to deliver training on subjects for which our members might not view the cost of in-person training as justifiable. This is why we chose to offer our Reverse Mortgage training virtually—it might be hard to justify travel and lodging costs when reverse mortgages constitute such a small portion of the mortgage market, yet it’s a topic that begs for additional training, and one that our members have often mentioned. We also jumped on the opportunity to partner with CSBS in offering the virtual training on pipeline hedging, as we knew that this would be a great topic, and one for which training hasn’t been readily available to our examiners. Meanwhile, we’re still assessing the resumption of our in-person schools.

We all know that the coming months will be challenging for the mortgage world, so I wish all of our General and Affiliate members success.

Clifford J. Charland
AARMR President
Maryland Office of the Commissioner of Financial Regulation

Highlights from 2022 Annual Regulatory Conference

This past August, AARMR held its 2022 Annual Regulatory Conference in Indianapolis, Indiana. We were excited to welcome 275 attendees from around the country who came to hear the latest regulatory and industry news and to network with colleagues. There was a particularly strong showing from our General Membership, with 147 representatives from 44
state agencies in attendance. We appreciate the continued support and conference attendance from our General and Affiliate membership.

During the conference’s award luncheon, President Cliff Charland announced the recipients of this year’s Distinguished Service Awards. These awards are presented annually in recognition of those individuals who have contributed to the Association’s many successes and to the important work of mortgage regulation and compliance.

**Distinguished Service Award**

Over the years, AARMR’s annual Distinguished Service Award has been presented to many well-deserving individuals who have made outstanding contributions in their field, and who are known for frequently going above and beyond their usual responsibilities and what is expected of them. This year was no exception.

The 2022 Distinguished Service Award was presented to former regulator, **Jedd Bellman**, who previously served as the Assistant Commissioner for Non-Depository Supervision in the Maryland Office of the Commissioner of Financial Regulation, and who now serves as Senior Attorney at Buckley LLP.

Although Jedd recently left state service and moved to private practice, as a regulator he was extremely dedicated to the state system, serving as lead negotiator on numerous multi-state enforcement actions.

At times, major settlements seemed to rest solely on Jedd’s shoulders as he worked tirelessly to negotiate on behalf of the states. A very respected and hard-working individual, Jedd could frequently be found working late and contacting colleagues at other states after hours just to keep cases progressing. He also could be routinely counted on to share his state’s perspective at conference roundtable discussions and at meetings with the NMLS Ombudsman. Over the course of many years, Jedd was fully engaged in support of state regulation.

We congratulate Jedd on receiving this prestigious award and thank him for his dedicated service.
Examiners-In-Charge (EIC) Distinguished Service Awards

The 2022 EIC Distinguished Service Awards were presented to the One Company, One Exam (OCOE) Pilot leadership team:

- **Craig Christensen**, Iowa – Origination lead
- **Craig Farrar**, New York – Cybersecurity/IT lead
- **Daniel Landini**, Connecticut – Servicing lead
- **Chris Romano**, Montana – EIC lead

The Conference of State Bank Supervisors (CSBS) & AARMR Nationwide Cooperative Protocol for Mortgage Supervision is designed to assist state mortgage regulators by outlining a basic framework for the coordination and supervision of Multi-State Mortgage Entities, or MMEs.

The Multistate Mortgage Committee contacts participating Joint Exam State Regulators to staff Joint Examination Teams and also designates an Examiner-in-Charge for each team. The EIC serves as the primary point of contact between the MME and the Joint Examination Team. The Joint Examination EICs exchange information during the examinations and coordinate the work of the Examination Teams.

On July 7, 2021, the OCOE Pilot officially kicked off, and became the largest multi-state examination effort to date. In addition, it was one of the first multi-state examinations conducted in the State Examination System (SES).

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and the state system as a whole to learn from
the process as efforts continue to refine the
OCOE initiative.

In addition, a number of individuals were also
recognized during the annual conference’s
awards ceremony for making significant
contributions to mortgage supervision through
their dedicated work in 2022 as Examiners-In-
Charge or Single Points of Contact.

Examiners-In-Charge:
Aaron Clifton, District of Columbia – two exams
Jeff Peterson, Nebraska
Leonard Smith, District of Columbia

Single Points of Contact:
Jacob Monson, Washington
Jenny Tipton, Washington

Immediate Past President Kirsten Anderson Recognized

AARMR’s Immediate Past President Kirsten Anderson (OR) was recognized during the annual conference’s Awards Luncheon for her two years of outstanding commitment and leadership of the Association.

Kirsten’s successor, President Cliff Charland (MD), had this to say about her leadership:

“Kirsten served honorably and with great distinction as AARMR’s president for two years, from August 2020 to this past Tuesday. It was a turbulent time in AARMR’s history, not only because the pandemic forced us to cancel or postpone our 2020 and 2021 conferences and training schools, but also because the Association experiencing serious financial challenges following the misappropriation of funds by our previous management firm. Kirsten navigated our organization through this rough patch with skill and fortitude.

Among the many accomplishments during her two terms as president, she led the development of our new Accounting Policies and Procedures Manual; she presided over 2021 Virtual Leadership Development training, Virtual Corporate Governance Examiner training, Virtual Mortgages After the Pandemic Symposium, and the in-person Annual Regulatory Conference in Savannah; and, in the first half of this year, she presided

Tom Fite, Director of the Indiana Department of Financial Institutions, welcomes the annual conference attendees to Indianapolis.
over our Virtual Financial Statement Analysis Examiner training and planned the Virtual Reverse Mortgages Examiner training coming up in October.

During her two terms, she also modernized the AARMR committees’ structure and drafted charters for many of these committees. She led the issuance of AARMR guidance on remote work and kick-started monthly mortgage-related news blasts to the members from the Communication Committee. Her leadership extended to AARMR’s continued participation on the MMC, MTEB, NMLS Policy Committee, Performance Standards Committee, and SCC. And she continued the important work and regular quarterly communication between the Board and the Industry Advisory Council.

Kirsten has dedicated many countless hours to AARMR over the years, and not just during the past two years as president. She has been, and continues to be, a great asset to our organization.”

President Cliff Charland (MD) recognizes Immediate Past President Kirsten Anderson (OR) during the conference.

2022-2023 Board of Directors (from left to right) Jeremy Windham (AL), Ellena Meier (TX-SML), Charlie Clark (WA), Kirsten Anderson (OR), Rod Carnes (GA), Cliff Charland (MD), Alison Kiyotoki (HI), Kareeme Tucker (NC) and Chris Romano (MT).

2022-2023 Directors & Officers

During the Annual Meeting of the General Members on August 9, 2022, in Indianapolis, the General Members elected the 2022-2023 Board of Directors, including new director Alison Kiyotoki (HI). The other Board members serving in the new term are Kirsten Anderson (OR), Rod Carnes (GA), Cliff Charland (MD), Charlie Clark (WA), Ellena Meier (TX SML), Chris Romano (MT), Kareeme Tucker (NC) and Jeremy Windham (AL).

Following the election of directors, the Board elected the following officers for the 2022-2023 one-year term:

President Cliff Charland (MD)
Vice President Chris Romano (MT)
Treasurer Rod Carnes (GA)
Secretary Ellena Meier (TX SML)
Memories from 2022 Annual Regulatory Conference in Indianapolis

Dr. Roger Tutterow, Kennesaw State University, addresses the conference attendees during his annual state of the economy report.

Actor and magician Joshua Lozoff entertains the Awards Luncheon attendees with his ‘The Magic of Communication’ presentation.

Panelists Richard Hill (MBA), Brad Robinson (CSBS), Charlie Clark (WA) and Tom Fite (IN) discuss the topic of cybersecurity.
Welcome New Members

AARMR is pleased to welcome the following new Affiliate Members to the Association:

ActiveComply LLC
Melissa Thomas, VP/Head of Compliance
www.activecomply.com

Cardinal Financial Company, Limited Partnership
Briana Wiederspahn, SVP, Compliance
www.cardinalfinancial.com

Hinshaw & Culbertson LLP
Bonnie Dye, Partner
www.hinshawlaw.com

Save the Date for the 2023 Annual Regulatory Conference!

Make your plans now to join your friends and colleagues in Baltimore, Maryland for AARMR’s 33rd Annual Regulatory Conference & Training. The conference is scheduled for August 7-10, 2023, at the Marriott Waterfront in vibrant and popular Harbor East. www.harboreast.com

AARMR’s January–July 2022 Accomplishments

- Issued AARMR Guidance on Remote Work
- Communications Committee began monthly mortgage-related news blast to members
- Provided Financial Statement Analysis Training to 378 participants
- Filled all positions available on the Industry Advisory Council
- Continued participation of AARMR representatives on MMC, MTEB, NMLS Policy Committee, PSC, SCC and SRR Board, and held quarterly meetings between the Board and the IAC.
CSBS to Update Model Standards for Nonbanks

The joint issuance of capital, liquidity and net worth requirements for nonbank lenders and servicers this month by Ginnie Mae and the Federal Housing Finance Agency was greeted with praise from mortgage industry trade associations. The progress at these federal institutions is running parallel to efforts at the state level and is a step in a larger process of nonbank supervisors bringing their prudential standards closer, according to Chuck Cross, senior vice president for consumer protection and non-depository supervision at the Conference of State Bank Supervisors.

The federal action has given the CSBS “a new opportunity” to review its standards and bring them closer to the Ginnie standards, he said. However, that will take several months, and will require a vote by CSBS commissioners, he added.

Cross’ remarks followed a joint statement from the CSBS and the American Association of Residential Mortgage Regulators throwing their support behind FHFA and Ginnie. He said the model standards issued by CSBS in 2021 dealt with the same issues as those addressed by FHFA and Ginnie, and that all three entities were working on requirements simultaneously, but in siloed form.

“We were all kind of aware that each other was at work at this but since we don’t have information sharing agreements in place between all three of us, we were very discrete,” he said.

Cross said the CSBS, when crafting its standards, consulted with industry groups and heard concerns about variations between regulators’ standards. “It’s a completely valid concern. There’s a lot of regulatory burden associated with having different standards you have to comply with,” he said.

In 2021, CSBS opted to align its standards with those of FHFA, to address that concern. Now it’s looking to do something similar again.

He said because the CSBS model standards are already mapped to the FHFA standards, all three nonbank supervisors — a term vague enough to capture the relationships of the CSBS, FHFA and Ginnie to nonbank mortgage lenders — have aligned liquidity requirements. He said capital requirements are overall aligned as well.

But what can be used to satisfy capital requirements differs, with CSBS disallowing some forms of credit from counting as liquidity. State regulators don’t allow the use of lines of credit to satisfy credit requirements nor does Ginnie. But the FHFA just began allowing the use of 50% of the unused portion of committed
agency servicing advance lines of credit to meet liquidity requirements.

Ginnie stands out, Cross said, in allowing advances from Ginnie issuers on loans. He said state banking commissioners feel strongly that borrowing lines shouldn’t be used to satisfy liquidity requirements, so bringing any CSBS standards closer on that front would be difficult.

The CSBS standards also differ in having corporate governance requirements.

The industry has generally voiced support for FHFA and Ginnie working together on their standards, but qualms remain. Pete Mills, senior vice president of residential policy and member engagement at the Mortgage Bankers Association, took issue with the standards’ 250% risk-based requirement for mortgage servicing rights, for example.

Overall, the MBA has spoken positively about the changes. When the new standards were issued, the MBA said it had previously highlighted concerns about “counterproductive incentives, procyclical requirements that exacerbate liquidity in stressed markets, and excessive liquidity requirements that could undermine market stability rather than strengthen it. Each of these points was acknowledged and reflected in the updated proposal.”

Scott Olson, executive director of the Community Home Lenders of America, in an interview said that CHLA was pleased Ginnie

and FHFA had “moderated their initial proposals and have started to recognize differences between large and small servicers.”

He said the added requirements for larger servicers not being levied on smaller ones was wise, as “when it comes to servicing, there is almost no credit risk because of the underlying FHA or GSE guarantee.”

“There is only advance risk, and if a small servicer goes bust, it is fairly easy to sell their MSR portfolio — so virtually all the systemic risk is with the large servicers,” Olson said.

CHLA, he said, would keep scrutinizing the standards to “see if further refinements are appropriate.” He suggested raising the $1 billion exemption in the FHFA hedging requirement and modifying Ginnie’s risk-based capital treatment of MSRs.

On CSBS, he said the CHLA welcomes standardization of state rules.

“But ultimately it is up to the states whether they do that, and whether they provide exemptions for small volume lenders and servicers in a state,” he said. Creating “disparate standards across different states” can make it hard to justify presences in states where few loans are made, Olson said.
Connecticut
Department of Banking

The State of Connecticut recently passed Public Act 22-94, An Act Concerning Various Revisions to the Banking Statutes. Section 4 contains Connecticut’s new mortgage servicing prudential standards, which remain close to the original language published by CSBS. A notable exception being that a “covered institution” is any servicer servicing 2,000 loans or more in the U.S. with no requirement for being present in multiple states, as long as they are considered a mortgage servicer in Connecticut. This section goes into effect on October 1, 2022. Section 5 has new requirements for QI, BM and MLO location requirements.

Previously all QIs and BMs had to be present at the main/branch office 100% of the time and live within 100 miles of that office. Those restrictions have been removed. Likewise, the MLO distance and assigned office restrictions have been removed and consistent with the Commissioner’s Order Establishing Requirements for Conducting Business form a Remote Office Location dated July 1, 2021, remote work is allowed for these individuals. This section went into effect on May 24, 2022, upon passage. Section 6 addresses Surety Bond requirements and cleans up old legislative requirements to be more in line with electronic surety bond requirements. This section went into effect on May 24, 2022, upon passage. Please review the Public Act for all details.

Illinois
Dept. of Financial & Professional Regulation

The Illinois Department of Financial and Professional Regulation (IDFPR) has an ongoing podcast series, “Making Cents of Money,” that explains complex financial topics for consumers in an easy-to-understand format. One episode focuses on mortgages, how they work, and their regulations. That episode can be found on Spotify, Apple Podcasts, and Google Podcasts.

Kentucky
Department of Financial Institutions

FAQs about implementation of 2022 HB 643 MORTGAGE STATUTE.

- What is an “Alternate Work Location”?
- What activities can take place at an “Alternate Work Location”?
- Where can an MLO (mortgage lending officer) meet a borrower or potential borrower in person to complete activities that fall within the mortgage lending process?
- When do I need a branch license for a location?
- Will there be a fee charged for new branch applications?
- Is it the responsibility of the licensee to document and disclose all alternate work locations of its employees to the Department?
- Will the Department issue a certification form that an officer will need to sign regarding alternate work locations?
Kentucky DFI (continued)

- What are the requirements to allow employees to engage in the mortgage lending process from an alternate work location?
- What are appropriate risk-based monitoring and oversight processes?
- Does the licensee have to physically inspect each alternate work location to make certifications of documented review to the Department?
- What does the licensee need to prove a documented review of an alternate location?
- Does the statute now allow for employees of mortgage loan companies and mortgage loan brokers to be paid as an IRS 1099 independent contractor?
- Will the statute changes apply to both Mortgage Loan Company and Mortgage Loan Broker licensees?
- Which address should a Mortgage Loan Originator enter as their employment location in NMLS?
- How will the assessment fee be invoiced and paid? When will licensees receive the invoice for payment?
- When is the assessment fee due?
- How will the assessment fee be determined?
- Will licensees still receive invoices after July 13, 2022, for examinations that are performed?
- Who can I contact if I have additional questions?

Administrative Action taken against Danny Yen

The Commonwealth of Kentucky, through The Department of Financial Institutions (KDFI), entered into an Agreed Order with Danny Yen, dba Real Estate Education Services, effective August 30, 2022. The order resolves violations of the Kentucky Financial Services Code, specifically that Yen filed or caused to be filed documentation with the NMLS on behalf of Kentucky licensed MLOs which was false or misleading regarding completion of PE and/or CE requirements associated with licensure under KRS 286.8-255 in violation of KRS 286.8-220(1). Yen agreed to pay a civil penalty of $6,200.00 to settle with the KYDFI. The Order can be found here.

Maine Bureau of Consumer Credit Protection

On July 29, 2022, William ‘Will’ N. Lund retired from his position as superintendent of the State of Maine Bureau of Consumer Credit Protection, a post he held since 1987. Will served under five different governors during that time, two Republicans, two Democrats and one Independent.

Will served as Chair of the Federal Reserve Board’s Consumer Advisory Council in Washington, DC and as a member of the Federal Reserve Bank of Boston’s New England Consumer Advisory Group. He authored more than 50 Consumer Law articles for the Maine
Maine BCCP (continued)

Lawyer’s Review newspaper, and has been a frequent speaker on consumer law, privacy and predatory lending issues.

During his tenure, the Bureau held memberships in a number of regulatory associations including AARMR, NACCA (National Association of Consumer Credit Administrators), for which Will served as president in 2011 and 2012, NACARA (North American Collection Agency Regulatory Association), ACUCCCS (American Conference of Uniform Consumer Credit Code States) and MTRA (Money Transmitter Regulators Association). Will contributed a regular column called “Quotes from Maine” to the NACCA newsletter.

Oregon Division of Financial Regulation

The Oregon Division of Financial Regulation (Division) has amended its branch licensing rules contained in Oregon Administrative Rules (OAR) 441-860-0030 and 441-860-0040 to permit licensed mortgage loan originators to work from their homes, provided the individuals are adequately supervised by their employers; privacy measures are in place to protect nonpublic information; and the underlying origination records can be made available at a licensed location in the United States. The amended rules will become effective October 1, 2022.

The amended rules follow the recently issued guidance by the American Association of Residential Mortgage Regulators (AARMR) that assisted state agencies in deciding whether to codify existing bulletins or take affirmative regulatory measures that would permit employees of state-licensed residential mortgage lenders to work from an unlicensed home or other unlicensed locations. Consistent with that guidance, the Division amended the branch licensing rules to permit licensed loan originators to work remotely from an unlicensed home if the following conditions are met:

First, loan originators are not allowed to meet consumers at the originators’ home unless the home is licensed as a branch location;

Second, there must be systems in place to ensure that data security and privacy requirements are met;

Third, the company responsible for sponsoring the loan originator has policies and procedures in place to sufficiently supervise the mortgage loan origination activities being conducted from the unlicensed home, including visiting at least annually by means of video or telephonic conference or similar communications equipment that allows all persons participating in the visitation to hear each other, provided that participation is controlled and limited to those entitled to attend, and the identity of participants is determinable and reasonably verifiable; and,
Oregon DFR (continued)

Finally, documents are available at a licensed location in the United States so that the Division and other regulators are able to conduct examinations of the mortgage lending activities.

In amending its branch licensing rules, the Division determined that the lack of consumer complaints during the pandemic shelter-in-place mandates and the ability to conduct examinations during that time showed that loan originators are able to work safely and effectively without compromising consumer privacy or failing to satisfy regulatory compliance.

Virginia
Bureau of Financial Institutions

Nancy Walker, manager of mortgage examinations for the Virginia Bureau of Financial Institutions, has announced her retirement. After 34 years as a state regulator, her last day will be September 30th. Those of you who have been involved with AARMR for a long time may remember Nancy from her many years on the Training Committee and as chair of that committee. In fact, she was a 2003 recipient of AARMR’s Distinguished Service Award for her work on AARMR examiner training. Nancy will be greatly missed, but we wish her well as she starts the next chapter of her life.
Independent Mortgage Banks and Community Reinvestment Requirements: A Solution in Search of a Problem

by William Kooper, MPA, VP of State Government Affairs and Industry Relations
Mortgage Bankers Association

Some state and federal policymakers have begun to call for extending Community Reinvestment Act (CRA) obligations to independent mortgage banks (IMBs). Federal CRA law is premised on the view that institutions that benefit from federal deposit insurance and receive deposits from the communities in which they operate have an obligation to reinvest a portion of those deposits in these communities by meeting local credit needs.

Simply put, this is a policy proposal in search of a problem. Here’s why:

1. In contrast to banks, IMBs do not take deposits from the communities they serve. Instead, they access funds from global financial markets and other sources of capital at their own risk and lend those funds in local communities. In short, they import capital from Wall St. to Main St.
2. As noted in MBA’s IMB Fact Sheet, nonbank mortgage lenders are the primary source of mortgage credit – by a wide margin -- for home purchases by low- and moderate-income (LMI) and minority households.
3. Those results are in part due to the IMBs’ growth in overall market share and their dominance in FHA lending. But a recent Urban Institute study shows that IMBs also outperform banks in LMI and minority lending as a percentage of their total business.
4. The report examined what proportion of overall bank and nonbank home lending is extended to LMI and minority borrowers and communities and found:
   - IMBs made a larger percentage of their home purchase mortgages (31.3%) to borrowers of color than banks (23.2%).
   - IMBs outperformed banks across all income levels. For example, 43.5 percent of all homeowners in LMI neighborhoods are homeowners of color, but 45.4% of IMB loans in those same neighborhoods were to minority borrowers. By contrast, loans to minority borrowers accounted for only 38.2 percent of bank lending in those neighborhoods.
   - Out performance by IMBs is not simply a result of their dominance of government lending. IMB lending for home purchases to minority borrowers, and to minority borrowers living in LMI areas, exceeds bank lending across both government loan products (FHA/VA/RHS) and conventional loan products.
The Massachusetts CRA Experiment

New CRA laws in New York and Illinois are modeled after a 2008 law enacted in Massachusetts. Yet, the data show faster growth in IMB lending to LMI and minority homebuyers in many states without CRA mandates for IMBs. For example, in Massachusetts, the proportion of purchase mortgages made to LMI homebuyers by IMBs increased from 27% in 2008 to 65% in 2021 – an impressive 140% increase, but no better than the growth in LMI share nationally. Moreover, results for IMB lending to LMI borrowers in New York and Illinois were better without a CRA mandate: the IMB share of home purchase loans to LMI families by 176% in New York, and by 146% in Illinois over the same period.

Better Policy Choices

If CRA were an effective policy tool, one would expect CRA-covered banks to outperform nonbanks in LMI and minority lending. In addition, one would expect IMB performance in lending to LMI and minority households in Massachusetts to outperform states without a CRA requirement. Neither hypothesis is true, demonstrating that CRA for IMBs is unlikely to produce any benefits that would outweigh the regulatory burdens and costs incurred.

Rather than enacting costly but unproductive new regulatory burdens, policy makers should work with IMBs to leverage their operational expertise and mission focus to expand and enhance the homeownership programs and tools the industry can use to serve LMI, first-time and minority families, including:

- down payment assistance programs;
- mortgage revenue bonds;
- mortgage credit certificates; and,
- integrating ECOA-compliant Special Purpose Credit Programs with state housing finance agency programs.

The opinions expressed in the following articles are those of the author(s) and do not necessarily reflect the positions of AARMR.
Regulation: The Good, Bad and the Ugly
by E. Robert Levy, Executive Director and Counsel, Mortgage Bankers Association of NJ and Principal Attorney, Offit Kurman, P.A.

Based upon years of experience with regulatory agencies, I am convinced that the general public as well as some of those regulated by administrative agencies don't fully comprehend why these agencies promulgate the regulations they do. In this regard, the vast majority of regulations I have dealt with as well as those I promulgated while in government, as a NJ Deputy Banking Commissioner, are responding to problems created by those entities that the regulations are focused upon.

However, there are legitimate issues with the regulatory process, as evidenced by the infamous PHH case decided by the United States District Court. In that case, the Director of the CFPB determined that the company charged was involved in an illegal kickback scheme in violation of Section 8 (a) of the Real Estate Settlement Procedures Act (RESPA). In his zeal to support his conclusion, he dismissed HUD's longstanding interpretation of RESPA, Section 8 (c) (2), which had been relied upon by the industry. The court determined that the Director had misinterpreted the statute.

The Director's opinion was, in effect, regulation by enforcement since he created a new meaning for Section 8 (c) (2) of RESPA. Absent the ability to comment when a regulation is promulgated, a sudden change in the meaning of our laws through enforcement actions, bulletins or informal pronouncements can be devastating to regulated entities. Industry trade associations can play an important role in avoiding such negative consequences by supporting the regulatory process and by providing input to regulators on issues coming before them prior to the time that formal regulations are needed.

Once a regulation has been promulgated and it becomes incumbent upon the regulator to deal with transgressions, the process should include, in my opinion, a recognition that the well-being of the business being regulated be considered along with protecting the interests of the consumer. This is particularly applicable in the mortgage industry, where the companies regulated are licensees of the state regulatory agencies, examined to ensure they are functioning in a safe and sound manner and are maintaining the minimum net worth required by state law.

Being active in a trade association that encourages self regulation is a good way for companies to avoid harsh regulations. By participating in a trade association, those regulated get to have
influence on the regulatory process as well as legislation that state or federal legislators are proposing to enact. However, members must play active roles and let their voices be heard to be effective.

Social Media – New Mediums, New Risks

by Melissa Thomas, CMCP I - ActiveComply, LLC

The FFIEC issued guidance in 2013 around social media compliance and made it clear that “financial institutions are expected to manage risks associated with all types of consumer and customer communications, no matter the medium.” In an ever-evolving social media landscape, it can be difficult for lenders and regulators alike to stay abreast of changes. Read the newest updates:

The Newest Platforms

Social media use in the financial industry is on the rise and state regulators are certainly taking notice. Some social media is relatively familiar: the tried & true Facebook business pages to foster personal connections with consumers, the LinkedIn profile that further develops those B2B relationships. But new, upcoming social media platforms are also starting to show up on examination findings. Alignable accounts are proliferating fast in the mortgage industry, despite the potential for RESPA section 8 violations and obvious fair lending concerns with the “Our Ideal Customer” section. TikTok is also front and center for loan officers looking to generate more leads in a compressing market. A March 2021 Forbes article titled Should You Get Mortgage Advice on TikTok? goes so far as to name specific TikTok accounts for licensed individuals and rank the quality of their prescribed financial guidance.

Consumer Complaints on Social Media

Some states have begun incorporating Yelp pages and consumer reviews into their regular examinations. Consumers who do not regularly utilize official feedback pathways like the Secretary of State, CFPB, or BBB, instead utilize social media platforms like Yelp, Zillow, and Facebook to relay their complaints - particularly about fair lending concerns. This is particularly worrisome for lenders who can have a difficult time wrangling social media that is created on their behalf by the consumer.
Recent Fair Lending Cases

Fair lending cases are continuing to be front and center in the news. On July 27th, 2022, the CFPB & the Eastern District of Pennsylvania brought an action against Trident Mortgage Company LP under the FH Act, ECOA, and the CFPA. This action against Trident was brought to remedy the company’s alleged discrimination in mortgage lending on multiple fronts, including office location, HMDA data, and, of course, marketing & advertising. Trident also concentrated its outreach, advertising, and marketing in majority-white neighborhoods and avoided marketing to majority-minority areas. In another relevant case, the CFPB has issued a consent order against Trustmark National Bank as well in part for discriminatory marketing practices.

The Move to Meta

While Facebook is a familiar name, the newest changes and rebranding to “Meta” has come with additional compliance concerns. In June 2022, the DOJ entered a settlement agreement with Meta (formerly known as Facebook) over allegations of discriminatory advertising. The main complaint alleged that Meta’s digital advertising system allowed housing-related companies to target and deliver ads to Facebook users based on protected classes under the FH Act. Merrick Garland and the DOJ have made it clear that “modern-day redlining” would be a pivotal focus for the department.

Arizona Senate Bill 1394 Enacted

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Arizona Senate Bill 1394 was recently enacted removing the requirement for mortgage licensees to obtain separate mortgage licenses for trade names. The law applies to all of the four mortgage license types -- mortgage broker, commercial mortgage broker, mortgage banker and commercial mortgage banker. The effective date of the law is September 24, 2022.

Currently, mortgage licensees are required to obtain separate licenses for all names used in Arizona and to pay the associated licensing and renewal fees. Also, separate examinations are conducted for each license with the associated costs of these examinations.
The Arizona Department of Insurance and Financial Institutions (‘AZ DIFI’) proposed the law under the leadership of Director Evan Daniels. In a recent statement, the AZ DIFI noted that licensees will save resources by not being required to maintain and pay for multiple licenses and that the law will also reduce the administrative costs of the AZ DIFI to allow it to more swiftly process new applications. The AZ DIFI also noted that consumers will be able to locate the trade names and name of the parent business on its website and that it continues to maintain the same regulatory authority over the parent business.