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MBA® Mortgage Bankers Association of America

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STATEMENT OF

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Chairman

of the

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On

"The Role of FCRA in the Credit Granting Process"

before the

Subcommittee on Financial Institutions and Consumer Credit

Committee on Financial Services

United States House of Representatives

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Good morning, Mr. Chairman and distinguished members of the Subcommittee. My name is John Courson and I am President and CEO of Central Pacific Mortgage Company, headquartered in Folsom, California. I am also Chairman of the Mortgage Bankers Association of America (MBA)* representing approximately 2,600 companies that are engaged in every aspect of commercial and residential real estate finance and include mortgage companies, mortgage brokers, commercial banks, thrifts, title companies and life insurance companies to name a few.

First, I want to thank you for inviting MBA to participate in this very important discussion. I am proud to testify in this month of June which has been designated by President Bush as Homeownership month. I applaud the Subcommittee for holding these hearings and giving the mortgage finance industry an opportunity to share with you the great success our nation has experienced with respect to the American dream of homeownership due, in part, to the Fair Credit Reporting Act (FCRA). Let me now share with you some of that success.

At present, approximately 68% of all Americans own their own homes, the highest rate in history. More minorities own homes now than ever. Purchasing a home is the largest investment that most Americans will ever make and it becomes their largest asset. Close to 75% of all American homeowners borrow money to finance their home. The Department of Housing and Urban Development indicates that homeownership brings good things to our citizens and to our economy. It creates millions of jobs for American workers; it increases consumer spending as homeowners fill their homes with household items; it is the single greatest contributor to wealth building for families; and it provides economic security for neighborhoods. In addition, homeownership is an important source of income to state and local governments by way of property taxes.

The Fair Credit Reporting Act plays an important role in this success by creating a structure that produces reliable consumer information that is used to lower the cost of homeownership, offer the dream of homeownership to underserved markets, and produce innovative mortgage products. I am here today to ask that you reauthorize the preemptions contained in the FCRA in their current form and maintain the national uniform standard of credit reporting. The national uniform standard is important for consumers and the mortgage industry because it gives rise to the following circumstances:

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*MBA is the national association representing the real estate finance industry. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership prospects through increased affordability; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters excellence and technical know-how among real estate finance professionals through a wide range of educational programs and technical publications. Its membership of approximately 2,600 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mbaa.org.

- It enables Americans to move to new states and purchase homes with relative ease;
- Lenders are able to originate loans on a national level increasing competition, thereby lowering the cost of credit to consumers;
- Mortgage lenders underwrite loans using automated underwriting systems that provide a quick response to a mortgage application. Automated underwriting systems are facilitated by the national uniform standard of credit. Reprogramming these automated underwriting systems to comply with inconsistent and fragmented state laws will surely increase the cost of credit;
- A mortgage lender can take a successful program or product in one state and implement it in another state allowing those consumers to benefit from it, and
- Credit reports have become reliable measures of an applicant's willingness and ability to pay.

Fair Credit Reporting Act Overview:

The Fair Credit Reporting Act was enacted in 1970 for the purpose of regulating the use and distribution of consumer credit information. It facilitated opportunities for consumers to apply and qualify for credit and for financial service providers to extend credit on a local level. In 1996, Congress amended the FCRA to include seven federal preemptions to provide accuracy, consistency and uniformity among the users of consumer information, those who report consumer information and credit bureaus that collect and distribute consumer credit information. The preemptions, which Congress included on an experimental basis, also provide for consumer protections and recourse to prevent the misuse and inaccurate reporting of consumer information. The federal preemptions improved the credit reporting system by creating a national uniform standard, which facilitated the availability of credit on a national rather than local level. The maintenance of this national uniform standard is imperative to the continued success of the mortgage finance industry by making credit readily available to homebuyers in a timely and cost-efficient manner.

The maintenance of a national uniform standard of credit significantly impacts the success of the U.S. mortgage market, which depends on the operation of the secondary market. Mortgage lenders sell loans to secondary market players who wrap them into mortgage backed securities and sell them to investors. It is imperative to the success of this market that the secondary market entities purchase lenders' loans. Secondary market players use automated underwriting systems to help determine if they will purchase a loan. These systems are statistically based risk management tools that utilize consumer credit information. These systems rely upon a single, national standard of credit and benefit consumers by lowering mortgage loan interest rates and closing costs. If these systems have to be reprogrammed to account for disparate state laws the cost of compliance and the cost of credit will surely increase.

Importance of a National Uniform Standard of Credit Reporting to the Mortgage Industry:

The existence of a national uniform standard of credit reporting increases competition between mortgage companies; allows for the extension of mortgage credit to those traditionally unable to qualify; and facilitates the innovation of mortgage products and significantly shortens the time it takes to close on a home. These benefits extend to consumers, mortgage companies and the economy.

If Congress decides to dismantle this well operating structure, it could negatively affect the availability, costs and variety of mortgage products in this country. Disparate state laws would give rise to regional barriers making it difficult for lenders to operate nationally and, thus, reduce competition among lenders. This outcome would increase the cost of credit to consumers. It would also decrease the amount of available consumer information which is necessary for advancements in technology and the innovation of mortgage products.

A. Consumer Credit Information:

By virtue of the FCRA, the collection and use of consumer information has paved the way for significant advancements in technology. The development of automated underwriting systems has significantly benefited both consumers and the mortgage finance industry. These systems are statistical scoring models that were developed based on information that reveals certain patterns of financial behavior by consumers. A loan officer can take a consumer application and process it through an automated underwriting system from their office. In a matter of minutes, that loan officer can determine whether or not the applicant qualifies for a loan. Borrowers no longer wait up to sixty days to learn whether they qualify for a mortgage loan. These systems are constantly improved and changed as new discoveries about consumer credit behavior are made by virtue of available, complete and accurate consumer credit data. Automated underwriting systems have become a cornerstone of our business processes and consumer information is vital to its maintenance.

The ability to evaluate risk more accurately through analysis of consumer credit data enables us to extend credit to Americans who, under traditional evaluation models, were considered too great a risk. Low income lending was born out of an increased understanding of the financial behavior and risk of consumers in traditionally underserved markets. Loans are made to a higher risk category of loan applicants and the loans carry higher interest rates due to the higher risk of foreclosure. The expansion into this market is growing rapidly from just under $30 billion in 1993 to $213 billion in 2002, dramatically increasing total homeownership rates. This expansion was made possible by the availability of consumer credit data.

Low interest rates and competitive low cost mortgage products have created a home buying and refinance boom. The projection for originations for 2003 is over $3 trillion – about 65% of which will be refinanced loans - as compared to 2001 originations of just over $2 trillion in mortgage originations. Currently, some lenders are highly challenged to handle the volume of loan applications. There is no way that the mortgage industry could have accommodated these volumes without automated underwriting systems. Further, these systems would not exist without the availability of consumer credit information.

Consumer credit information also has enabled us to create new mortgage products that are tailored to the needs of certain segments of the population. For example, mortgage products with lower rates in the first few years of the loan's life, appeal to individuals like graduate students who anticipate greater incomes in the future. Understanding consumer behavior enables us to create products that respond to certain consumer needs.

B. Maintenance of a National Uniform Standard:

A national uniform standard of credit reporting is vital to the continued success and ease with which borrowers access credit. As an industry, we have been able to operate on a national level with relative ease due to a single standard of compliance for consumer credit information use, reporting and distribution. Consumers, lenders and the economy have derived considerable benefits from this system. If states are allowed to enact disparate and inconsistent laws in place of a national uniform standard, the cost of credit will increase and the availability of credit will be diminished.

If Congress permits states to legislate in the areas that are preempted in the FCRA, it would have dramatic effects for both industry and consumers. Mortgage lenders that currently operate nationally will be forced to discover and comply with a myriad of state laws that will increase their costs of doing business and, hence, the cost of credit. There would likely be a drop in the number of lenders operating nationally, thereby decreasing competition. Further, the automated underwriting systems that our industry so heavily relies upon are programmed to comply with one set of rules established by the FCRA. If this uniform system were replaced with inconsistent and fragmented state laws, the value and accuracy of the automated underwriting systems would suffer. As a result, there would be increased credit risks for lenders and increased credit costs for consumers.

The existence of a national uniform standard has enabled Americans to obtain credit across state lines with great ease. A consumer can move from their home state of New York to Nevada and buy a house, an automobile, and open a credit card having never been to Nevada. Due to the availability of reliable credit reports, a financial service provider does not need financial experience with a consumer in order to extend credit, but only a copy of their credit report. A consumer credit report also enables consumers to apply and qualify for credit via the internet from out of state lenders.

It is imperative that reliable credit reports be made available to mortgage lenders and financial service providers in general. The credit report is a fundamental tool that permits us to evaluate an applicant's ability and willingness to pay. State laws that make it more difficult to determine the true risk of an applicant would reduce the value and reliability of credit information, thereby increasing the cost of credit.

C. Affiliate Sharing:

Another important part of the national standard relates to affiliate sharing. The FCRA allows consumer information sharing between affiliates of the same corporate family. Through cross-selling products, information is shared with consumers educating them about the availability of certain products that they may be interested in. A customer can take advantage of offers of credit that they would otherwise be unaware of, to improve their financial situation. A customer can exercise the right to opt out of this information sharing and mortgage banking companies take great care in disclosing and honoring this request. Affiliate sharing is an important and inexpensive way for consumers to access credit and for industry to learn about consumers and expand their customer base.

Conclusion:

Many Americans today own their own home and many have refinanced their mortgage. To do so, many American consumers may have responded to an advertised product received in the mail. They may have applied online or sat down with a loan officer, filled out an application and received word within hours about whether their application was accepted. These consumers may have never met the loan officer before and they may have applied in a state to which they just moved. In either case, these consumers were able to buy a home or refinance a mortgage with great speed. Without a national standard established under the Fair Credit Reporting Act, in its current form, this would never have been possible.

I am here today to ask that Congress maintain the national uniform standard of credit reporting for consumers, for lenders and for the economy. By reauthorizing and making permanent the preemptions, the mortgage industry can continue to gather information about consumer credit behavior and utilize it in such a way to offer more Americans the dream of homeownership.

Thank you again for inviting the Mortgage Bankers Association of America to testify before you today. MBA would be happy to furnish you with any additional information you may need. I am happy to answer any questions.