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Memo

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Date: May 15, 2008

To: Members of the Senate Banking, Housing and Urban Affairs Committee

From: Floyd E. Stoner, Executive Vice President, Congressional Relations and Public Policy

RE: Opposition to Senator Martinez's Amendment (#48) to the Federal Housing Finance Regulatory Reform Act of 2008

I am writing on behalf of the members of the American Bankers Association to express our strong opposition to the amendment numbered 48, expected to be offered by Sen. Mel Martinez (R-FL) during the Senate Banking Committee's consideration of the Federal Housing Finance Regulatory Reform Act of 2008.

The Martinez amendment includes two provisions which would subject federally regulated banks and thrifts to duplicative regulation at the state level.

Section 615 of the amendment provides state licensing agencies with the authority to conduct investigations and examinations of loan originators and mortgage brokers. While the overall amendment includes definitions making a distinction between loan originators employed by a depository institution or its subsidiaries and loan originators who are not so employed (and who must therefore be licensed by a state), Section 615 makes no such distinction and would require all loan originators to submit to state level examination and investigations.

Additionally, because the amendment includes no definition of "mortgage broker," Section 615 could also subject depository institutions acting as correspondent lenders to examination and investigation by state level agencies. In either case, depositories that are regulated at the federal level would also be subject to investigation and examination at the state level.

Section 616 provides that any state law providing greater consumer protection than provided under the amendment may not be preempted. This section would ensure that any state law going beyond the provisions of the Martinez amendment could be applied to any loan originator. States would be able to pass laws that subject federally regulated institutions to another level of regulation, examination, and licensing. This provision is duplicative and counter to the interests of an efficient, well regulated mortgage market.

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As originally drafted, the Martinez amendment would be counterproductive and only bring greater confusion to the regulatory process. I strongly encourage you to oppose this amendment when it is brought before the Committee.

If you have any questions, please do not hesitate to contact me.