



**Statement of Jon K. Skarin, Senior Vice President, Massachusetts Bankers Association**  
**Division of Banks Regulatory Review Informational Hearing**  
**Thursday, August 13, 2015**  
**9:30 AM**

Good morning Commissioner Cotney, members of the panel, my name is Jon Skarin and I am senior vice president of the Massachusetts Bankers Association. On behalf of our 170 member institutions, MBA appreciates the opportunity to testify at today's regulatory review informational hearing. The hearing is the first step in the process to implement Governor Baker's Executive Order 562, which seeks to reduce the regulatory burden on institutions doing business in the Commonwealth. We want to thank you and your staff at the Division for holding this hearing to begin the review process and we look forward to working with you over the coming months in helping to identify areas where state banking regulations can be streamlined and updated to reflect the evolution of the banking industry.

Our comments this morning will focus only on those regulations that directly affect banks – both state and federally-chartered institutions – doing business in Massachusetts. In addition, we plan to submit further written testimony addressing more technical issues with some of the regulations under review.

**General Comments**

As you know, Massachusetts has a long history of being a leader in banking regulation. From the creation of NOW accounts, to the implementation of interstate branching to the nation's first Truth-in-Lending law, the Commonwealth has played a key role in advancing both consumer protections and industry innovation. With the enactment last session of the comprehensive bank modernization law, Chapter 482 of the Acts of 2014, Massachusetts continues to work to enhance the competitiveness of state-chartered banks while updating and streamlining our banking laws for the future.

MBA strongly believes that a viable state banking charter is essential for the industry to thrive in Massachusetts. However, changes in federal laws, particularly the Dodd-Frank Act (DFA) and creation of the Consumer Financial Protection Bureau (CFPB) have imposed significant new burdens on all banks, regardless of size or charter. Any effort to reduce the regulatory burden in Massachusetts will be welcomed by our members, who are facing increased compliance costs and a rapidly evolving regulatory environment.

**Specific Comments**

- **209 CMR 32.00: Disclosure Of Consumer Credit Costs And Terms:**

Throughout the legislative process regarding the bank modernization law, MBA and the Division worked to modernize the state's Truth-in-Lending statute (Chapter 140D) to reflect the significant changes made in federal TILA and Regulation Z after the enactment of the DFA while retaining the state's historic examination exemption from federal TILA. We believe the recent changes in the

statute that bring our statute more closely in line with the federal rules will be helpful in reducing confusion among our members as to whether state or federal rules apply in certain instances. We continue to believe that there are additional areas of the statute and the regulations that can be conformed to the federal TILA and Regulation Z rules without compromising the state's exemption. For example, the difference in the right of rescission of four years in state law and three years under the federal rules. Any efforts to streamline the compliance with these complex statutes and regulations for state-chartered institutions; put all banks – state- and federally-chartered – on a level playing field; and ensure consistency for consumers across the Commonwealth would be applauded by our members.

- **209 CMR 33.00 Conversion By Co-Operative Banks And Savings Banks From Mutual To Stock Form**

We would note that given the recent changes in state law with the enactment of Chapter 482, we look forward to working with the Division to update 209 CMR 33.00 to reflect the updates included in the new statute.

- **209 CMR 46.00 Community Reinvestment**

As you know, the federal banking regulatory agencies are currently undertaking a decennial regulatory review under the Economic Growth and Paperwork Reduction Act (EGRPRA). As part of this process, the agencies are considering changes to the federal Community Reinvestment Act (CRA) and we would strongly urge the Division to use any federal updates as a template to modernize the Commonwealth's implementing regulations for CRA.

- **209 CMR 53.00 Determination and Documentation of Borrower's Interest**

MBA believes that given the recent changes in federal law and regulations, particularly the implementation of the "Qualified Mortgage" (QM) regulations by the CFPB, the Commonwealth's requirement for the determination and documentation of a borrower's best interest under Chapter 183 §28C should be revised or repealed. We would note that the recent revisions to the regulation, effective July 18, 2014, provide that anytime a borrower refinances into a QM loan, it is deemed to be in their best interest. In addition, the exemptions included in 209 CMR 53.04 means that the law and regulations do not apply in a large number of refinancing situations.

The regulations create burdensome paperwork requirements where banks are mandated to include documentation in the loan file that a mortgage meets the requirements of 209 CMR 53.00. We are also aware of unique situations where these requirements have caused confusion for our members in attempting to address delinquencies and preserve homeownership during the recent foreclosure crisis. For example, some member banks were concerned that they would be criticized for refinancing a borrower in a loan with a low "teaser" adjustable rate into a fixed-rate product with a higher interest rate than the original mortgage.

- **209 CMR 56.00 Foreclosure Prevention Options**

We would like to echo many of the comments by the Massachusetts Mortgage Bankers Association (MMBA) with regards to potential changes to 209 CMR 56.00. While we recognize that many of the provisions in the regulations are required under state law, specifically Chapter 244, sections 35A and 35B, we do believe that the Division should seek to bring these regulations into conformity with new federal requirements on loan servicing and the foreclosure process. In addition, numerous court decisions in the Commonwealth have made compliance with the statute and the regulations increasingly more complicated. To the extent that the Division can ensure that regulatory requirements do not conflict with these decisions, it would be extremely helpful to our members.

MBA will also file more detailed written comments on several technical issues regarding 209 CMR 56.00 that have been brought to our attention by our members.

**Conclusion**

Thank you again for the opportunity to testify at this morning's hearing. We look forward to working with you throughout the regulatory review process to ensure that the Commonwealth's banking regulations do not place an undue burden on banks in Massachusetts and that the state charter continues to be competitive. I would be happy to answer any questions.