Typically, January is a fairly slow month in terms of legislative and regulatory output. Although many new laws take effect on January 1, the California Legislature is out of session, and at the federal level, the new Congress has yet to be sworn in, as well as the new president, who spends the early months constructing the new cabinet and working on goals and plans.

As you know by now, January 2013 was not a typical month. In addition to a host of new rules coming out of Washington via the Consumer Financial Protection Bureau (CFPB), CMBA has had a busy month fighting efforts to implement a novel use of eminent domain in several cities across the state. More on that in a moment.

The new Qualified Mortgage (QM) rule will leave its mark on the industry for years to come, shaping loan origination for us all. The final version of QM will give mortgage lenders safe harbor from future litigation, something industry had argued for, and overall, we should be pleased with the new rule. Additionally, debt-to-income relief was provided by allowing the GSE to defer to their respective AUS systems instead of adhering to the rule limit of 43%. HARP and government programs to prevent foreclosures were exempted from the final rule. Negatively, the QM rule applied a 3% points and fees cap to transactions, which was a large disappointment to the wholesale and broker community as all compensation must be included in the calculation, whereas direct or retail lenders only have to count the amount they pay their loan officer towards the test while including all other fees. The restricted product provisions were no surprise, and they include interest-only loans and option
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arms to name a few. Now that the rules are final, CFPB is giving industry a year to comply—all of these new rules will go into full effect in January 2014. In the meantime, CFPB is still seeking comment on technical issues like how to calculate points and fees. In many ways we are all still in limbo as we wait for these technical issues to be resolved.

In January the CFPB also issued final rules on loan officer compensation. To the surprise of many, the CFPB eliminated the rule that every offer had to include a no-cost option, although the CFPB reserves the right to review this aspect at a later time. Loan officers still cannot be paid on the terms of the loans, and quarterly or annual cash bonuses are allowed as long as they are not factored by the term of the loan. Additionally, the bonus cannot exceed 10% of the total compensation.

After all this rulemaking (we’re just scratching the surface so far), we witnessed a court decision in January that may yet throw all of this into question. The D.C. Circuit Court of Appeals ruled in January that President Obama’s ‘recess’ appointments to the National Labor Relations Board (NLRB) were unconstitutional. The ruling only impacts the NLRB appointments, but CFPB Director Richard Cordray was appointed in similar fashion and the pending case against his appointment could end up with the same result. In the event this happens, much of CFPB’s work could be called into question or even nullified. Such a
It is safe to say that the mortgage industry is spending an exponentially increased amount of time on compliance these days. It seems that seasoned veterans and those new to the industry are both finding themselves shifting resources in order to keep up. With the legislation and regulation coming at the industry from both the national level as well as all 50 states, everyone needs to invest in their ability to be in compliance.

CMBA is your source for industry education on compliance issues for all levels. Considering the implementation of several new federal regulations, we have created a one-day CFPB Symposium that will cover issues such as ability to repay/qualified mortgage, loan originator compensation, servicing standards, high-cost mortgages, appraisal and escrow rules that were all released from the CFPB in January. I realize that there are many sources for this information via the internet and what you receive electronically, but I will tell you that nothing replaces being in person with the industry experts on compliance issues. That’s what this event will offer you! The chance to hear this information first hand and ask questions of our panelists who are leading experts on this critical information. This event will be held March 11th in San Francisco. The new regulations that we saw in January represent the new normal for the mortgage industry. It is not an option to discount these new developments or delay in your company’s preparedness. Take this opportunity to get a jump start on compliance.

Bringing the focus back to California, I will also encourage you to attend our annual Legislative Day happening Tuesday, March 19th in Sacramento. This is your chance to be a part of the CMBA lobbying team and serve as the voice for California real estate finance. After hearing from our lobbyists about the priority pieces of legislation that we’ll be working on this year, we split everyone into groups and head to the State Capitol. We arrange meetings with key members of the Senate and Assembly Banking Committees and legislative leadership. Why do we do it like that instead of having everyone meet with their own representatives? Because the Banking Committee members are the representatives that hear each and every one of the mortgage related bills introduced and are keenly aware of the issues we’d like to discuss. This system has proven to be a much more effective use of our time in the Capitol. We end the day with a reception where we invite every member of the State Legislature. This is your chance to speak informally with policy makers and participate in the education of how certain legislative concepts may cause more harm than do good when it comes to protecting access to affordable credit.

In addition to the events mentioned here, the CMBA Board of Directors has made it clear that we will offer a session on compliance at some level at each one of our conferences this year. Everything is riding on your ability to maintain compliance levels and CMBA wants to be the first resource you consider.
The 2013–2014 California legislative session is beginning with a spirit of optimism regarding the state’s fiscal status not felt in the capital in recent memory. Instead of policy makers frantically debating how to address $20 to $25 billion deficits requiring draconian state spending cuts or substantial new taxes, the state’s top fiscal analyst and Governor Brown are in general agreement that the state’s spending and revenues are roughly in balance. Now, for a state the size of California with a $97.7 billion general fund budget, roughly in balance means a $1.9 billion deficit according to initial estimates from the Legislature’s top financial advisor, but that is still a far cry from the from the much more significant budget deficits of the last decade.

The Governor highlighted the increasingly optimistic view of California in his State of the State speech. He stated that California has once again confounded its critics and spoke of an improving economy. He also emphasized that government must do what all of us as private citizens must do; be prudent with respect to spending and exercise fiscal discipline. That means living within means and not spending revenue the government does not have. Some
Keep Your Home California is a $2 billion federally funded, state-run foreclosure prevention program that is helping struggling California homeowners pay their mortgages and stay in their homes. Servicer participation is required for homeowner eligibility. No cost to the servicer or homeowner.

These programs are available to help your borrowers.

- **Unemployment Mortgage Assistance**
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  - Reduces a homeowner’s principal by as much as $100,000

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  - Up to $5,000 to help homeowners relocate after executing a short sale or deed-in-lieu of foreclosure

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Residential News

Mortgage Professionals are the Key to Keep Your Home California

By Diane Richardson, Director of Legislation, California Housing Finance Agency (CalHFA)

A $2 billion federally funded mortgage assistance program is making a huge difference for California homeowners who once thought their only viable option was walking away from their home and mortgage. Keep Your Home California has now helped over 20,000 families stay in their homes, pay their mortgage and rest much easier at night.

Mortgage professionals are the key to Keep Your Home California’s success, and with more than 100 servicers now participating—including major banks like Bank of America, Wells Fargo, Chase Home Finance and CitiMortgage—more homeowners can take advantage of this free assistance.

“When we ask homeowners how they heard about our programs, forty to fifty percent consistently tell us they learned about us through their lender, loan officer or financial advisor,” said Claudia Cappio, Executive Director of the California Housing Finance Agency, which manages the Keep Your Home California program. “Professionals in the lending industry can definitely bring some value, trust and conviction to our message, so we count on their credibility with their clients.”

Under the Keep Your Home California umbrella, four separate programs are available to help struggling homeowners:

A better approach to compliance

In its Supervision and Examination Manual, released in March 2012 and updated in October 2012, the CFPB adopted a new compliance and enforcement strategy requiring mortgage lenders to implement coordinated, ongoing and active compliance management so they are able to self-identify and self-correct deficiencies to prevent compliance violations.

C3 Compliance Consultants, Inc. is a new, outsourced approach to delivering the compliance management that the CFPB requires at a fraction of the cost of hiring a chief compliance officer.

To schedule an investigatory meeting to discuss your company’s needs, please contact Kenneth Fick, Managing Director, at 301.691.1324 or kfick@c3complianceconsultants.com or Ari Karen, Director and Founder, at 301.691.1340 or akaren@c3complianceconsultants.com.

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As we enter our fifth year since the onset of The Great Recession, it appears the tide has turned for new commercial mortgage originations. The Mortgage Bankers Association (MBA) projects 11 percent growth in originations of commercial and multifamily mortgages for 2013. They forecast originations to grow from $229 billion in 2012 to $254 billion in 2013, with an additional 13.8% increase to $289 billion in 2015.

Total outstanding commercial and multifamily mortgage debt, currently at approximately $2.35 trillion, is projected by the MBA to grow to over $2.4 trillion at the end of 2013 and over $2.5 trillion by the end of 2015. The current distribution of total outstanding commercial and multifamily mortgage debt includes:

- Commercial Banks $819 billion, 34%
- CMBS, CDO & other ABS issues $562 billion, 24%
- Agency/GSE (portfolios & MBS) $369 billion, 16%
- Life insurance companies $323 billion, 14%

According to Jamie Woodwell, MBA’s Vice President of Commercial Real Estate Research, “We expect origination volumes and the amount of mortgage debt outstanding will both increase. Our forecast anticipates Fannie Mae, Freddie Mac and FHA, as well as life insurance companies, will all continue to have strong appetites for making loans and, coupled with growth in originations for CMBS, the total market will continue to expand.”

Loan Growth by Lender Type

Banks, CMBS and GSEs showed substantial growth in commercial mortgage loan issuance for 2012 vs. 2011, while life companies remained steady:

- Commercial Banks ..................+51%
- CMBS .................................+45%
- GSEs .................................+43%
- Life Insurance Companies ......unchanged

Loan Growth by Property Type

Hotels and multifamily properties had the greatest increases in new loan activity in 2012 (vs. 2011); however, solid growth was also evident in retail, industrial, office and health care properties:

- Hotel ...................................+ 61%
- Multifamily ............................+36%
- Retail .................................+19%
- Industrial .............................+10%
- Office .................................+9%
- Health Care ..........................+6%

Resurgence of CMBS

January may have set an issuance record for CMBS according to Wells Fargo Securities (WFS). To provide some perspective, during the go-go days of 2007, $1.1 billion of CMBS went to market in January. This year, WFS reports that January CMBS issuances may have totaled almost $9 billion which would have surpassed the record of $8.2 billion that went to market in January 2005.

Marielle Jan de Beur, Head of Structured Products Research with WFS says, “2010 to 2012 CMBS transactions have performed well to date, with minimal delinquencies. One trend we like to keep an eye on, though, is the amount of loans showing up on servicer watch lists. Currently, there are 76 loans totaling $2.1 billion on servicer watch lists, up from 41 loans totaling $1.0 billion only five months ago.”

According to Fitch Ratings, 92 percent of the nearly $20 billion in maturing non-defaulted commercial mortgage loans that reported financial data as of year-end 2012 would be able to refinance, assuming a market-level refinance rate.

On the other hand, Don Dibble, Senior Vice President of Lincoln Financial Group warns us that, “the CMBS market is a concern to all market participants as the market has become frothy, primarily the result of non-real estate practitioners buying the paper as they reach for yield.”

CONTINUED ON PAGE 18
Editors' Note—This is the latest in a series dealing with the issues facing the real estate finance industry. Each issue we touch on a different topic, asking CMBA's experts for their thoughts on the issue at hand. In this issue of CMFN, we ask three experts what they think originators need to keep an eye on in 2013. Kevin Parra is a member of the CMBA Board of Directors, and President and CEO of San Diego-based Plaza Home Mortgage, Inc. He is also chairman of CMBA's 4th Annual Sales & Marketing Conference. Melissa Richards, CMB is Chief Legal and Risk Officer for CMG Financial, and an industry expert in licensing and regulatory compliance. Art Yeend is Director of National Sales for Got Appraisals.

Q: What are the top 3 issues (legislative/regulatory/compliance/etc.) originators need to be aware of in 2013?

Parra: The Ability to Repay—Qualified Mortgage (ATR-QM) Rules create general product standards, minimum underwriting and documentation requirements and also sets limits on points and fees. Industry leaders are working with the CFPB to provide comments on certain aspects of the rule such as the calculation of affiliate fees, calculations for Jumbo loans, including originator compensation in the points and fees test and whether certain refinance transactions should be exempt from the ability to repay standard. The deadline for comments is February 25, 2013.

The HOEPA High Cost Loan Rule expands HOEPA coverage to include purchase-money transactions, loans where the total points and fees exceed 5% and reduces the APR threshold. HOEPA loans bear extraordinary liability and are generally un-saleable. This rule is significant because of its potential for limiting credit.

Richards: 2012 marked the beginning of a new regulatory era for the mortgage banking industry with the Winter Recess appointment of Richard Cordray as Director of the Consumer Financial Protection Bureau (CFPB) and that agency’s full implementation of prudential regulatory oversight over the non-depository consumer finance industry. In 2013, mortgage originators now know that they must build and maintain robust risk management and quality control programs relying more on compliance and auditing automation systems that can digest and analyze greater volumes of loan level and collateral valuation data than ever before—because the CFPB is fulfilling its regulatory and examination functions by doing the same.

Mortgage originators must also ready themselves for a January 2014 deadline to fully implement the litany of Dodd-Frank final rules issued by the CFPB in January 2013. They include Ability To Repay/”Qualified Mortgage” defined; enhancements to the Reg Z Loan Originator Compensation Rule and the minimum qualifications for federal MLO registration qualifications; Uniform minimum standards for Mortgage Servicing and Loss Mitigation under RESPA and TILA; HOEPA amendments; and new Appraisal Requirements both for “high risk” loans as well as two new initial disclosure requirements. Similarly, mortgage originators are anticipating the release of CFPB final RESPA/TILA disclosure integration rules mid-year and the release of proposed rules defining “Qualified Residential Mortgage” for mortgage securitization purposes.

Lastly, I will mention CFPB Vendor Management Guidelines. Mortgage originators will continue working...
The release of the most recent commercial loan delinquency survey (See page 13.) marks the end of an era. After conducting the survey for over 20 years, Peter Ulrich, CMBA’s Commercial Real Estate Finance Consultant, is retiring from active service with CMBA. He was recently honored for his years of dedicated service at CMBA’s bi-annual breakfast, held in conjunction with the Mortgage Bankers Association’s CREF Conference.

Although some may only knew Peter as the producer of our commercial delinquency survey, his life and career bear reflection and stand as a testament to his character and generosity.

Ulrich started his career after serving in the Army during World War II as a translator (Ulrich spoke both German and Italian) working with captured Italian P.O.W.s. Following his discharge in 1946, he started work as an escrow officer in the Riverside, CA area, later working as a real estate officer. Ulrich then held several positions at the Bank of California, culminating in his role as president of the bank’s mortgage banking subsidiary. His experience would serve him well in his next role as head of Beneficial Standard Mortgage Company, a subsidiary of Beneficial Life Insurance Company, where he would serve until his ‘retirement’ in 1988. His retirement didn’t last long, though, as just a few years later CMBA would call upon Ulrich to help defend the reputation of California’s commercial real estate industry.

Leaders at CMBA and longtime California commercial mortgage bankers who have been witness to Ulrich’s career and involvement with CMBA attest to the value he brought to his clients and to the industry.

“His reputation during his career was peerless,” said Roger Olson, founding board member of CMBA, chairman from 1958–1959, and longtime chief at Q10|Dwyer-Curlett (now Grandbridge Real Estate Capital). “It couldn’t be better. He exhibited total honesty, and you never heard a negative word about Peter.”

“He comes from a time when a man’s word was his bond, and when he said he would do something, he meant it and would do it, period,” noted Tup Fisher, CMBA Treasurer, former chairman, and portfolio manager at Washington Capital Management.

“I originally met Peter when I first became active, in 1966, and he was a highly respected mortgage banker,” said Scott Calder, CMBA board member, and vice president at Pacific Southwest Realty Services. “I considered Peter a mentor as well as a good friend.”

Struggling in the shadows of the S&L crisis, many of the state’s commercial real estate professionals began to notice that insurance companies were losing confidence in the performance of California commercial real estate. The CMBA Board of Directors took action to initiate a quarterly survey of its
SACRAMENTO—According to the latest California Commercial Loan Delinquency Survey, conducted by the California Mortgage Bankers Association, the delinquency rate for the fourth quarter of 2012 decreased to 0.21%, falling from the previous quarter’s rate of 0.35%. The survey finds that just 16 loans, totaling $88.9 million, were two or more payments past due. 10 of the 14 mortgage banking firms included reported zero delinquencies and the survey includes $46.1 billion of commercial/multi-family loans, most of which are not securitized.

Of the 16 delinquent loans, the five largest are all land loans, ranging from $4.5 million to $21.3 million. The delinquent income property loans are a $3.8 million apartment loan in Solano County, five small warehouse/industrial loans totaling $9.2 million, a $1.2 million office building in Contra Costa County, and a $1 million hospitality loan. The balance of the 16 delinquent loans consists of two other smaller land loans.

Two of the 16 delinquent loans were reported as being in foreclosure: a $19 million land loan in San Diego County, and the aforementioned $3.8 million apartment loan.

There were zero delinquent R&D loans reported. Additionally, zero mobile home park loans were reported delinquent, as has been the case since the survey began in 1990.

By number, the 16 loans represent 0.39% of the 4,189 loans surveyed.

“Investors throughout the country should take note of the rock-solid performance of California commercial real estate,” said Peter Ulrich, CMB, CMBA’s Commercial Real Estate Consultant. “Non-CMBS lending remains an excellent investment going forward.”

The following table compares delinquencies by type of property.

For survey purposes, a loan is considered delinquent if it is two or more payments past due. Loans in the process of foreclosure are included, regardless of the number of payments past due.

CONTINUED ON PAGE 27

DELIQUENCIES BY TYPE OF PROPERTY
December 31, 2012 (Dollar figures in millions)

<table>
<thead>
<tr>
<th>Property Type</th>
<th>Total Servicing</th>
<th>Amount Delinquent</th>
<th>% Delinquent As of 9/30/12</th>
<th>% Delinquent As of 6/31/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>Multi-family</td>
<td>$20,784.3</td>
<td>$3.8</td>
<td>*</td>
<td>0.16%</td>
</tr>
<tr>
<td>Office Buildings</td>
<td>7,795</td>
<td>1.2</td>
<td>*</td>
<td>0.11%</td>
</tr>
<tr>
<td>Retail</td>
<td>6,867.8</td>
<td>18.6</td>
<td>*</td>
<td>0.25%</td>
</tr>
<tr>
<td>Warehouse/Industrial</td>
<td>5,226.3</td>
<td>8.9</td>
<td>0.18%</td>
<td>0.13%</td>
</tr>
<tr>
<td>Hospitality</td>
<td>604.9</td>
<td>16.5</td>
<td>*</td>
<td>2.80%</td>
</tr>
<tr>
<td>R &amp; D Properties</td>
<td>344.1</td>
<td>-0-</td>
<td>-0-</td>
<td>-0-</td>
</tr>
<tr>
<td>Mobile Home Parks</td>
<td>172.7</td>
<td>-0-</td>
<td>-0-</td>
<td>-0-</td>
</tr>
<tr>
<td>Other Properties</td>
<td>1,241</td>
<td>73.9</td>
<td>5.95%</td>
<td>6.73%</td>
</tr>
<tr>
<td>TOTALS</td>
<td>$43,036.1</td>
<td>$88.9</td>
<td>0.21%</td>
<td>0.35%</td>
</tr>
</tbody>
</table>

* Less than 0.01%

The December 31, 2012 survey included $43 billion of California commercial mortgage loans being serviced by 14 mortgage banking firms.
Mark your calendars now!

2013 Calendar

February 21, 2013
CMBA Regional Networking Series: Los Angeles After Hours (Residential)
Offices of Palmer, Lombardi & Donohue, LLP
Register now at www.CMBA.com!
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March 7, 2013
CMBA Regional Networking Series: San Francisco After Hours (Residential)
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March 19, 2013
CMBA Annual Legislative Day
The Citizen Hotel, Sacramento, CA
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April 4, 2013
CMBA Regional Networking Series: Folsom After Hours (Residential)
Offices of Mortgage Lender Services
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April 8-9, 2013
CMBA Annual Sales & Marketing Conference
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April 18, 2013
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May 16, 2013
CMBA Regional Networking Series: Pleasanton After Hours (Residential)
Offices of Patton Sullivan, LLP
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Sponsored by Patton & Sullivan, LLP, CMG Financial, Bankers Insurance Service and Wells Fargo Home Mortgage.

May 22, 2013
CMBA Regional Networking Series: Embarcadero After Hours (Commercial/Multi-Family)
Offices of Allen Matkins Leck Gamble Mallory & Natsis, LLP
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41st Annual Western Secondary Market Conference
Westin St. Francis Hotel, San Francisco, CA
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August 4–6, 2013
18th Annual Western States Loan Servicing Conference
Encore at the Wynn Las Vegas
Registration & Sponsor-Exhibitor info coming soon!

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Wells Fargo Home Mortgage

September 25–27, 2013
16th Annual Western States CREF Conference
Encore at the Wynn Las Vegas
Registration & Sponsor info coming soon!

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result would mean more uncertainty for our industry—I don’t think anyone wants to replay the last year of CFPB rule promulgation.

While the CFPB issues are being issued 3,000 miles away, industry has been facing a grave threat right here in California that has seen CMBA take a leading role, along with a host of industry groups. As I’m sure you have heard, a San Francisco investment firm, Mortgage Resolution Partners (MRP), has spent over a year attempting to convince cities across the state to support their proposal to utilize eminent domain to seize underwater mortgages held in securities and refinance to give homeowners equity and avoid foreclosure. In addition to raising constitutional questions (particularly regarding ‘just compensation’—the group plans to pay below-market rates for the loans seized, the devastation to the local market would be great. New loans would have additional risk built in, raising costs for future borrowers, and consequently choking off access to affordable credit.

As bad as that sounds, I do have good news to report. Last month CMBA attended a public meeting of the San Bernardino County-Ontario-Fontana Joint Powers Authority that has been the most prominent public agency considering MRP’s eminent domain plan. After carefully reviewing the proposal, consulting with stakeholders on all sides, the JPA decided against going forward with eminent domain, citing the unknown risk to the market, and the lack of public support. While this was a definite victory for mortgage bankers and the real estate finance industry, the battle continues. A week or two after the San Bernardino hearing, a public meeting took place in Salinas, at which MRP detailed their plan to stakeholders and city officials. No organized support was present, and local real estate professionals along with CMBA and other industry groups challenged the plan and cautioned officials on the risks, and it appears unlikely that the city will move forward with eminent domain.

We’ll continue to keep you up-to-date on the latest with eminent domain and regulatory issues. Plus, once the legislative season kicks into high gear, count on CMBA to be there to represent and defend your industry.
of the major themes of the State of the State included: saving for a rainy day, limiting the number of laws produced by the Legislature, and encouraging business and job growth. He called upon the Legislature to pay down the state debts and store up reserves against the leaner times that will surely follow. He opined that constantly expanding the power of government by adding each year so many minute prescriptions to an already ponderous and detailed legal system overshadows other aspects of public service. And on the topic of business and job growth he referenced reforming the California Environmental Quality Act as an example of a way to create greater certainty for business and cut needless delays. These themes clearly outline a course for 2013 focusing on balance to avoid derailing California’s recovery from a multi-year economic retrenchment.

The health of the housing market and supporting industry segments are critical to a vibrant California economy. And there is little doubt that California housing is experiencing a recovery. Most local regions have seen home price gains in 2012, housing inventory is low and there has been a decline in state foreclosures. These are all indicators of a recovery, and there is a cautious optimism that 2013 will see more of the same. There are many variables that will determine whether the housing recovery has legs, not the least of which is the impact of recently enacted state laws, federal regulatory activity and the uncertainty of whether the state Legislature will continue to propose changes to California’s mortgage lending, servicing and foreclosure process.

The recently enacted California Homeowner Bill of Rights would have to be put on the top of the list of new state legislation with the potential to impact the housing recovery. Legislation in this bill-package extensively revamped the non-judicial foreclosure process, and the ultimate result of the changes is yet to be determined. Given these extensive changes, it is our hope that state policy makers will allow for the market to assimilate the new processes before additional requirements, restrictions or additions are proposed. At the time of the writing of this article it is still very early in the Legislature’s bill introduction process, so the volume of introduced legislation is still very low. That is expected to change in the next few weeks as the bill introduction deadline approaches. The following is a list of several bills that have the potential to impact the housing marketplace and a summary of the new consolidation of the financial services regulatory structure that will be operative on July 1, 2013:

**AB 188—Split Roll Property Tax**

*Introduced In State Assembly.*

AB 188 would specify that if 100% of the ownership interests in a legal entity are sold or transferred in a single transaction, the real property owned by that legal entity has changed ownership, whether or not any one legal entity or person that is a party to the transaction acquires more than 50% of the ownership interests. Under the bill “Single transaction” means a transaction in which 100% of the ownership interests are sold or transferred in either one calendar year or within a three-year period beginning on the date of the original transaction when any percentage of ownership interests are sold or transferred. The person or legal entity acquiring ownership interests in the legal entity, if 100% of the ownership interests in the legal entity are sold or transferred, must file a change in ownership statement signed under penalty of perjury with the State Board of Equalization. Penalties for failure to file a change in ownership statement would increase from 10% to 20%. This bill is similar to previous measures introduced by the assembly member to expand the definition of change of ownership for commercial properties.

**SB 30—Mortgage Debt Forgiveness**

*Introduced In State Senate.*

The state Personal Income Tax Law conforms state tax law to specified provisions of federal law relating to the exclusion of the discharge of qualified principal residence indebtedness for tax purposes. SB 30 would extend the operation of the state exclusion of the discharge of qualified principal residence indebtedness to debt that is discharged before January 1, 2014, thereby extending the application of the exclusion for an additional year.
AB 42—Mortgage Debt Forgiveness Introduced, In State Assembly.

As introduced AB 42 states that it is the intent of the Legislature to enact legislation that would extend the operation of Section 17144.5 of the Revenue and Taxation Code, relating to the exclusion of the discharge of qualified principal residence indebtedness from an individual’s income, to conform to any federal legislation that extends the operation of this exclusion in federal income tax law.

Reorganization of Executive Branch/Financial Services Regulatory Structure Operative July 1, 2013

The Governor’s plan to create greater clarity and efficiency in the executive branch of state government by combining like functions and missions will be operative on July 1, 2013. In putting forward the plan he argued that some agencies contain departments with unrelated missions and some departments have programs that are similar to programs in other departments scattered throughout state government. His plan will reduce the number of state agencies from twelve to ten when operative in July. Of most relevance for CMBA members, the plan will consolidate the Department of Corporations and the Department of Financial Institutions into a new Department of Business Oversight under the new Business and Consumer Services Agency. The Department of Real Estate and Office of Real Estate Appraisers will also be made bureaus under Department of Consumer Affairs.
The Principal Reduction Program offers as much as $100,000 for homeowners to lower their principal balance and reduce their monthly mortgage payments. Recent changes to this program have boosted servicer interest and participation. For instance, the previous dollar-for-dollar match requirement from servicers has been eliminated, and now Keep Your Home California covers all of the funding up to $100,000. Also with the new changes, funds will be disbursed in the first year rather than in three installments over three years, and the associated forgivable loan will extend from three to five years.

The Unemployment Mortgage Assistance Program provides as much as $3,000 per month for homeowners currently receiving or approved to receive jobless benefits from the state Employment Development Department. This program allows homeowners to look for work without worrying about their mortgage payments for as long as nine months.

The Mortgage Reinstatement Assistance Program has a maximum benefit of $25,000 available for homeowners to catch up on their mortgage payments. Homeowners must demonstrate a financial hardship and be able to maintain their monthly payments going forward. For many families, reinstatement assistance is all the help they may need to stay on track.

The Transition Assistance Program gives homeowners, who agree to a deed-in-lieu of foreclosure or short sale with their servicer, as much as $5,000 for relocation costs, such as moving, rent and a security deposit.

Keep Your Home California has several eligibility requirements for the homeowner, property and mortgage. These include:

Homeowners must:
- Own and occupy the home as their primary residence
- Meet program income limits
- Have a documented, eligible hardship
- Have adequate income to sustain modified mortgage payments

Property must:
- Be located in California
- Not be abandoned, vacant, or condemned
- Be a single family, 1-4 unit home

Mortgage must:
- Be serviced by a participating servicer
- Be a first mortgage lien (HELOCs are not eligible)
- Have a current unpaid principal balance of $729,750 or less
- Be delinquent or in imminent default

Certainly, Keep Your Home California is not the complete solution to the economic and housing problems in our state, but it can have a significant impact. When we prevent foreclosures, we’re not only helping that individual or family but we are also helping to stabilize local property values, maintain tax revenues, mitigate crime and reduce the burden of vacant properties on local entities.

As a trusted banking source for advice and assistance, you can help homeowners find out more about Keep Your Home California and the many ways the programs can help families avoid foreclosure.

Please help us raise awareness for our programs by directing homeowners to www.KeepYourHomeCalifornia.org or www.ConservaTuCasaCalifornia.org (in Spanish). Homeowners can also call our counseling center toll free, 888.954.KEEP (5337). Callers can be assisted in virtually any language. Hours of operation are Monday through Friday from 7:00 a.m. to 7:00 p.m. and Saturday from 9:00 a.m. to 3:00 pm.

To become a participating servicer, contact Sandra Gallagher at 916.326.8057 or sgallagher@calhfa.ca.gov.

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Will We Remember?

As lending markets continue to heat up, and debt capital becomes more abundant, will lenders remember to maintain discipline in their underwriting?

“What is relevant is the abundance of capital chasing every transaction, resulting in nominal rates being driven to new lows,” says Dibble. “At some point, nominal rates will bottom and other differentiators like relationships, ease and certainty of execution will be the differentiators.”

Matthew Galligan, executive vice president with CIT Real Estate Finance reminds us that, “the most important issue now is how does the banking industry maintain discipline when there’s more liquidity and more players in the marketplace. That’s where the industry has fallen before; people start to get panicky and do things that don’t make sense from a credit perspective, they put money out at levels that don’t make a lot of sense. Will they have the discipline this time not to destroy the credit standards that we have now in the marketplace?”

It appears that 2013 will be a year of growth and opportunity for commercial mortgage originators. It will also be an opportunity for all involved to apply the lessons learned over the past cycle, so that the next wave of growth can be steady and sustainable.

through these vague Guidelines that CFPB has indicated will not evolve into final rulemaking (their advice is “to use your best business judgment”). Expect the mortgage industry to collectively develop its own best practices for developing a Vendor Management Program that meets the spirit of CFPB Guidelines and that is tailored to individual originators’ size, risk tolerance and business platforms. In light of the exponential growth some of our mortgage originators have experienced in the past year due to the refinance boom, I suggest using your Vendor Management Programs in 2013 to reevaluate whether your existing vendors that were suitable for a smaller sized company, are appropriate for your company’s size today and in the coming years. With increased size comes greater investor and regulatory agency expectations for the type of vendor programs you are using to support your business platform(s).

Yeend: It may not be a top 3 issue but from a valuation perspective we expect to see ongoing efforts that will bring more national standardization to the residential real estate appraisal process. Traditionally regulation of real estate appraisers has been handled at the state level, with a federal agency the Appraisal Subcommittee (ASC) overseeing the state boards. Since Dodd-Frank implementation Appraisal Management Companies (AMC’s) have grown in prominence, as has the awareness that AMC’s lack substantial and uniform oversight. As a fix, Congress required the CFPB, federal banking regulators and Federal Housing Finance Agency establish, by regulation, minimum standards by January 2013 requiring AMC’s to register and be subject to supervision by a state appraisal board in each state they operate in. Currently only 26 states require registration and license, we anticipate that number will expand substantially this year along with further procedural clarification and rules development led by the CFPB.

Q: What industry trends are we likely to see?

Richards: First, building these robust risk management and quality control programs is not cheap, and undergoing CFPB regulatory examination is hardly a pleasure. As your question below alludes, interest rates are bound to go up in 2013 and there will be a drop-off from the 2012 carryover mortgage refinance boom. I expect once that happens, we will see a consolidation of the mortgage industry with those originators not willing to reinvest their profits into an enterprise that can sustain the emerging regulatory environment to either exit entirely, or to fold into one of the mortgage originators that is committed to adapt to the new environment.

Next, home prices are stabilizing. REO inventory is weaning. I do expect to see a surge of applications for purchase money financings in 2013 and hopefully with it, a return to common sense collateral valuations. Also with the stabilization, I expect to see more community bankers desiring to partner with the mortgage industry.
to offer purchase money loans with accompanying home equity lines of credit to their depositors.

Lastly, I expect continued and perhaps an increase in fair lending scrutiny on the mortgage industry by HUD, CFPB, Justice Department and State Attorneys General. HUD is expected to finalize “disparate impact analysis” rules in 2013, giving clear guidance to regulatory and enforcement agencies on dissecting HMDA data and drawing presumptive conclusions that protected classes of persons have been disparately and adversely impacted by lending policies appearing neutral on its face. If you’ve not done so already, be sure that your robust new risk management and quality control automations systems come with fair lending analytics so you can be prepared to defend and counter disparate impact allegations.

Yeend: We expect housing to remain a bright spot in 2013 and a year of escalation. Rising residential rental prices, rising home prices, rising mortgage interest rates, rising home construction costs, rising percentage of purchase transactions, and rising mortgage transaction costs with everything from higher agency fees to increased costs associated with ongoing regulatory compliance. Probably goes without saying we’ll see rising pressure to maintain what was for most lenders has been record profit margin levels. So despite some regulatory pain points and threat of increased costs we would expect another excellent recovery year for smart, compliant, efficient players in the mortgage space.

Parra: Our industry will continue to be widely affected by regulatory changes introduced by the CFPB implementing the Dodd/Frank legislation. The political environment will also be a major factor in the direction of lending in 2013. How the CFPB implements the QRM rule will decide whether or not private capital returns to the lending space. Interest rates will also be a key factor in that existing rates will not attract private capital. The political debate as to how to significantly reduce the government’s role in lending will have a major impact on the agencies as well as the FHA.

The CFPB will have chilling effect on originators who are not focusing on being compliant in their processes or who don’t have a deep understanding of Fair Lending regulations and how to avoid disparate treatment in their book of business. The cost of doing business will definitely continue to rise and this will be an opportunity for companies that are efficient in executing a more complex process.

While there is debate as to how many loans are left that can use the HARP program the certainty that it is finished at the end of the year, without an act of congress, will transform the industry focus back to purchase loans.

Q: Will the move to ‘mini-correspondent’ continue in 2013?  
Yeend: Yes we believe the trend will continue for now and until such time large aggregators with full access to the capital markets return to the scene. On the sell side you have brokers that want to grow into lenders for a variety of reasons driven more and more by regulatory, compliance and process issues. On the buy side you have rising numbers of mid-sized Mortgage Bankers coming to the realization offering some form of a correspondent channel allows them to expand production quickly and efficiently. And finally it appears enough Warehouse Lending capacity and competition exists to provide the interim financing to allow such transactions.

Parra: I see several key factors that have contributed to growth in the mini-correspondent business and unless changes occur, growth should remain steady in 2013. There is minimal barrier to entry for a lender wanting to become a mortgage banker. The primary requirement is a warehouse line of credit and there is plenty of liquidity in the market from various lenders for this market segment. Second, the transition for a mortgage broker wishing to become a banker is seamless. There are various secondary market outlets to purchase mini-corr business and provide the upfront underwriting, eliminating most of the credit risk for the mini-correspondent. There are also numerous third party fulfillment companies who provide docs and compliance, thereby reducing the closing risk. And lastly, the awareness level has been elevated in the industry by multiple sources.

Many of the lending conferences are featuring panels discussing mini-corr business and these panels have
seen full attendance and interest by originators. From an investor point of view, this channel reduces the risk of running into fair lending issues because the loans are purchased as opposed to originated.

**Richards**: Absolutely for a couple of reasons. First, the CFPB’s final definition of “Qualified Mortgage” that includes a “points and fees” cap element was a direct shot at the independent mortgage brokers who apparently have not yet been forgiven by this agency for past sins.

In addition, Dodd Frank and the final CFPB HOEPA rules are lowering the “points and fees” threshold percentage while expanding the scope of what is counted toward “points and fees.” As a result, mortgage originators can expect to earn less up front on closed loan transactions in an effort to avoid hitting the lower threshold and must look for ways to make up the difference on those transactions post-closing.

Lastly, now that we as an industry know that we must subscribe to the Loan Originator Compensation Rule for the long term, the control of loan pricing and fees earned on closed loan transactions falls solely on the lender in the transaction, leaving brokers to subscribe to a “static and prospective” compensation program for all wholesale loans originated. By securing a limited warehouse line and moving to “lender” status on transactions, the broker turned “mini-correspondent” can gain back some control over loan pricing.

**Q: MBA predicts that purchase loans will outnumber refis by the 3Q—how will that impact the average originator?**

**Parra**: Average originators in low interest rate environments do fine. The transition from receiving multiple calls a day with refinance leads to the phone going quiet will not be the first time we have seen this happen. The impact is usually many frustrated loan officers trying to reinvent themselves.

Since this recent low interest rate environment has stuck around for longer than expected, the impact will be that much worse. There will be plenty of average loan originators competing with good loan originators for a smaller pie. The good news is that average loan officers have opportunities and options to become better skilled. There are plenty of very good origination companies that are known for training loan officers and increasing their chances of succeeding. It will come down to the individual’s desire and passion to continue with originating loans and seeking out these companies. Fortunately, even with all the new regulation, a career as a loan originator is still very rewarding. This alone should be the motivator for an average loan originator to continue with this career path and do what it takes to become better.

**Richards**: I don’t know what the makeup is these days of an “average originator”—each one I know operating today has its own unique business features.

But I can say definitively that the make-up of the average mortgage customer will certainly change as we move away from a dominant refinance market into one that is balanced or even more weighted towards purchase money. The average refinance customer is just chasing the best rates and the quickest means of locking the rate in and closing the loan. There is no affinity or allegiance to the mortgage originator. On the other hand, the average purchase money customer or lead source bases their choice on mortgage originator through relationship, high touch customer service, and lender reliability that the loan will close on or before a predetermined date. The mortgage originator will have to assess its current business platform, understand that it is likely to be scaled more towards the refinance market these days, and determine whether they want to shift that platform to accommodate more of the purchase money, as well as correspondent, business later in 2013. If they do decide to make that shift, the planning and implementation needs to start now if not sooner.

**Yeend**: We agree with the MBA’s prediction of purchase loan growth and the implications from a valuation standpoint are considerable. Originators and realtors should consider preparing buyers for a possible post-crash rising market reality; what buyer’s likely need to pay in a purchase
price will not necessarily be fully reflected in an appraised value and as a result will require more cash into the transaction than just a normal down payment. This could be the first time in a post-crash world were we see extended overall improvement in home prices and the bad news is appraiser’s hands will continue to be tied with current investor guidelines that require use of historical data, closed sales as the primary and in many cases only method to support value.

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commercial members and their portfolios, in an effort to provide evidence that the state’s commercial loan performance was rock-solid. Ulrich was hired to conduct the survey, drawing on his decades of experience and contacts. The survey proved to be an invaluable tool, particularly in the early years. “It was a terrific weapon for us,” said Olson. Ulrich’s experience and perspective was particularly helpful. “He believed, as we all of did, that understanding the local nature of real estate markets is crucial to correct underwriting,” noted former CMBA chairman Paul Schroeder, managing director at Cohen Financial.

Throughout the history of the survey, California’s commercial loan delinquency level was consistently lower than national aggregates, and by focusing on loans held in insurance company portfolios (not S&L or, later, CMBS), the survey successfully restored investor confidence. Since 1998, the survey reported a delinquency rate higher than 1% in just two quarters (during 2010). Additionally, it showed the strength of several particular markets—for example, the survey never reported a delinquency on a mobile home park.

In addition to conducting CMBA’s commercial delinquency survey, Ulrich also stepped up his involvement in several local charities and causes during his ‘retirement.’ Ulrich’s list of community activity and involvement is too numerous to list, but includes interests as diverse as serving on the Arcadia City Council, Life Member of the Salvation Army’s Los Angeles Advisory Board, volunteering with the Arcadia Police Department, leadership in The Opera Buffs, Los Angeles Lions Club, Lutheran Church of the Cross, Arcadia, and much more.

Although Ulrich active service with CMBA is drawing to a close, the friendships cultivated over decades of business and social interaction will remain strong.

“What can be said? He is loyal, dependable and tenacious: when something needs doing he will get it done,” said CMBA board member and industry veteran Scott Whittle. “It is a privilege to be a friend of his.”

“He always has a twinkle in his eye, with a big smile and a kind word for all,” said Fisher.

“He’s a lifelong friend, a very
Building Stronger Partnerships

On a trip down to the Los Angeles area, Susan stopped off at the offices of one of CMBA’s most supportive members, Q101 Dwyer-Curlett & Co. (now Grandbridge Real Estate Capital). Thanks to former CMBA Chairman Roger Olson (far right), a member of CMBA’s founding board of directors in 1955, for his continued support. Thanks as well to SVP Shelley Mageffin, who has been very supportive of CMBA over the years (middle), VP Shelley Hasskamp (second from left), and CMBA Board of Directors member Scott Whittle (left). For more info, call (310) 226-2700 or go to www.gbrecap.com for more details.

Just up the road in Folsom, Susan and Dustin met with executives at Mortgage Lender Services, Inc. The firm specializes in non-judicial foreclosure work, and has been active since 1983. The company will be hosting one of CMBA’s Regional Networking events on April 4th. Special thanks to Michael Andrews and Marsha Townsend for their continued support for CMBA! For more information, call (916) 962-3453 or go to www.mtglenderservices.com.

Heading to the San Francisco Bay Area, Susan stopped off at the Pleasanton offices of Richards Law, meeting with J.R. Richards. The firm, a new CMBA member, focuses on general real estate matters, leasing, escrow and title, mortgage, and more. To find out more, go to www.richards-legal.com or call (925) 234-8404.

Next, Susan met with executives at Spiegel Accountancy Corp., an accountancy firm focusing on the mortgage industry. To find out more about the Walnut Creek-based company, call (925) 977-4000 or go to www.spiegelcorp.com.

WINTER 2013
Continuing the tour of the Bay Area, Susan stopped off at the Santa Rosa offices of Smith Dollar, P.C. Thanks to firm founders Rachel Dollar and Glenn Smith for their time and support of CMBA. The firm is a leader in the mortgage industry, focusing on a number of critical areas, including financial services litigation, fraud, and more. For more info, go to www.smithdollar.com or call the Northern California offices at (707) 522-1100.

In conjunction with the MBA’s Commercial Real Estate Finance Conference in San Diego, CMBA held a breakfast event that featured Heitman’s Mary Ludgin, who delivered a ‘state of the state’ presentation, detailing the health and future outlook of California’s economy and the real estate market. From left: Dennis Sidbury, CMBA Commercial/Multi-Family President; Northmarq Capital; Mary Ludgin, Heitman; Tom Dudley, CMBA Treasurer/Immediate Past Chairman, Newmark Realty Capital, Inc.

Further inland, Susan met with executives at First Priority Financial, headquartered in Fairfield. The company is one of the more active lenders in the state, founded in 1977. Thanks to Steve Weaver for his time and support! To find out more, call (707) 525-6060 or go to www.firstpriorityfinancial.com

Staying in Santa Rosa, Susan met with Randy Blankenbaker, branch manager for Sonoma Bank. To get in touch with Randy, call (707) 568-1805 or go to www.bankwithsonoma.com.
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admired friend," Olson remarked.

From the staff and board of directors, we sincerely appreciate his devotion and many contributions, and wish him and Carol, his wife of over 68 years, nothing but the best going forward.

Fourteen income property mortgage bankers participated in the CMBA survey. These companies originate and service loans on apartments, retail, industrial and other commercial properties for institutional investors such as life insurance companies and pension funds.

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