Introductory Statement of

Michael Decker
Senior Managing Director, Research and Public Policy

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Good afternoon and thank you for the opportunity to be here.

The evolution of mortgage securitization has been one of the most remarkable developments in the financial markets of the last 25 years. The mortgage securities market, now the largest sector of the U.S. fixed-income market, has brought numerous benefits to investors and especially homebuyers and has reduced risks for banks, thrifts and others engaged in home lending. The rise of subprime lending and the growth in access to mortgage credit for subprime homebuyers wouldn't have been possible without mortgage securitization.

Millions of eligible families have been able to purchase homes as a result of subprime mortgages and mortgage-backed securities—SIFMA estimates that nearly 2.2 million families used subprime financing to purchase their first homes between 2000 and 2006. However, it has become clear that underwriting standards were, at times, too loose at the peak of the housing boom; subprime loans that shouldn't have been made were made. Irresponsible lenders, secondary market investors, and most importantly borrowers are now paying the price for these irresponsible players. None of these parties benefits from higher rates of defaults or foreclosures. The market has clearly and swiftly reacted to correct these excesses; this can be seen in the closure of a number of subprime lenders, and increasing loss rates on bonds backed by subprime mortgages which were poorly underwritten. Overall, however, the subprime market has worked extraordinarily well and has served the needs of homebuyers with weak credit; clearly the vast majority of subprime borrowers are able to pay their loans on time, and have been able to achieve the dream of homeownership.

The vast majority of subprime mortgages are sold by loan originators into the secondary mortgage market and become collateral for mortgage-backed securities. Participants in the secondary mortgage market generally are not in positions to determine whether the loans in which they invest were originated under illegal, inappropriate or fraudulent terms. It would be inappropriate and unfair to expect mortgage wholesalers or MBS investors to serve as the policemen for the subprime mortgage market. Indeed,

imposing undue obligations or liabilities on secondary market participants would simply drive them from the market altogether and dry up funding for subprime originations.

Some policy-makers at the federal, state and local levels have supported imposing such assignee liability on secondary market participants. In some cases, these efforts have resulted in a total shut-down of subprime lending in those jurisdictions.

In addition, assignee liability provisions at the state and local levels have left the market with a patchwork of different and sometimes conflicting laws governing liabilities for the secondary market. SIFMA opposes the imposition of liability for illegal lending on secondary mortgage market participants. However, if policy-makers do impose assignee liability on investors or others, observing several key principles would help mitigate any negative, unwanted effects and ensure that worthy subprime borrowers continue to have access to mortgage loans.

- Any governance of subprime lending should be based on clear, objective, concise and quantifiable lending standards.

- Assignee liability provisions, if necessary, should be enacted as a single uniform national standard.

- Assignee liability provisions should not provide a path for class actions against secondary market participants.

- Laws or regulations should be clear as to which parties could be subject to liability and under what conditions.

- Claims against assignees should be limited to violations of HOEPA.

- Damages allowed against assignees should be reasonable and limited and liability should be quantifiable.

- Assignees should have the ability to cure defects before liability is imposed.

- There should be a reasonable statute of limitations against claims.

There should be a safe harbor against claims for market participants who have exercised due diligence in their activities, including, for example, having internal policies in place that prohibit purchasing loans in violation of legal standards and requiring representations from originators that their loans do not violate standards, among others. It is impossible for a secondary market participant to know what information the borrower may have received from a broker during the innumerable conversations that are a part of a mortgage loan transaction. It is likewise not economically feasible for a secondary market participant to review each and every document in each and every loan file when contemplating a purchase of a pool consisting of hundreds of thousands of loans.

In recent years, some states have imposed assignee liability provisions that have been based on unclear, subjective standards, have imposed uncapped liabilities on assignees, or have otherwise imposed unreasonable burdens on secondary market participants. Perhaps the most egregious example was the 2002 Georgia Fair Lending Act, which included several provisions that were onerously difficult to interpret or apply and which imposed potentially unlimited liability on assignees. The result of that action was a virtual shut-down of the subprime lending business in Georgia until the law was amended the next year.

In addition to ensuring that assignee liability standards are clear, objective and reasonable, SIFMA has views on several other policy responses to current issues in the subprime market. For example, we encourage loan servicers to employ flexibility as provided for in loan and servicing contracts, in accordance with applicable law and accounting standards, to help borrowers in trouble avoid foreclosure. Indeed, we have been promoting steps that can help keep families in their homes. These might include alternative repayment plans, forbearance agreements and loan modifications. However, we strongly oppose governmentally mandated forbearance or loan modification. Such actions would impose unreasonable penalties on mortgage investors not responsible for how loans were originated and would threaten the legal and contractual underpinnings of securitization and reduce the willingness and ability of the secondary market to finance mortgage lending.

We also oppose the imposition of subjective suitability standards applicable to mortgage lending, and we oppose regulatory restrictions on specific mortgage products. Suitability would be too difficult to apply in the context of the lender-borrower relationship – decisions about whether a loan is “suitable” for a particular borrower can only be made after the fact. Restricting particular mortgage products could prevent lenders from offering borrowers mortgages that best meet their needs.

SIFMA is committed to helping policy-makers at all levels of government address current issues in the subprime market in a way that preserves mortgage lending for families with poorer credits. Thank you again for the opportunity to be here. I look forward to our discussion.