



## DOJ official takes aim at rule banning banks from becoming brokerages

Sessions' no. 2 Assistant Attorney General Makan Delrahim hinted that the ban may be addressed at an upcoming real estate competition workshop

BY **ANDREA V. BRAMBILA**

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One of the National Association of Realtors' main political victories may be up for some scrutiny at the Department of Justice (DOJ) and Federal Trade Commission (FTC) [workshop on real estate competition](#) this Tuesday.

On Thursday, DOJ Assistant Attorney General Makan Delrahim delivered [opening remarks](#) at the DOJ Antitrust Division's [third roundtable on competition and deregulation](#), which assessed the consumer costs of anticompetitive regulations.



In his remarks, Delrahim noted that NAR took credit for a rider in the 2009 Omnibus Appropriations Act that imposes a blanket ban on financial institutions entering the real estate brokerage and management businesses, citing that legislation as an example of regulators being “aggressive in preventing new business models and protecting incumbents from entry.” President Obama signed that legislation into law in March 2009.

*consumers is in real estate. Buying or selling a home is the largest financial transaction most Americans will ever undertake, and in many cases the largest single investment. The Division has made it a priority to protect consumers in real estate markets, in part because regulators have been aggressive in preventing new business models and protecting incumbents from entry. For example, the National Association of Realtors states on their website that they were key in securing a rider in the 2009 Omnibus Appropriations Act that imposes a blanket ban on financial institutions from entering into real estate brokerage and management businesses. The Antitrust Division's website on competition and real estate describes the Division's multifaceted work in this area — the next installment being our joint workshop, next Tuesday, with the Federal Trade Commission to explore competition issues in the residential real estate brokerage industry.*



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NAR has repeatedly cited the permanent ban on banks entering real estate brokerage as a legislative and regulatory accomplishment, most recently in the [press release](#) announcing the retirement of its chief lobbyist, Jerry Giovaniello.

The 1.3 million-member trade organization devotes [a page on its website](#) to the ban, saying that allowing banks to engage in real estate brokerage would be anti-competitive and anti-consumer and result in increased costs for homebuyers.

Asked for comment on Delrahim's characterization of the ban, NAR General Counsel Katie Johnson said in an emailed statement, "The National Association of Realtors firmly believes that banks should be impartial providers of credit. The laws preventing banks from engaging in real estate brokerage fulfill the mission of preserving competition and protecting consumers by avoiding concentrations of power within the financial services sector that would ultimately increase costs for homebuyers."

Whether and to what extent the ban will be discussed is not clear from [the workshop's posted agenda](#). The DOJ did not respond to a request for comment as of publication time. We will update this story when we hear back.

In January, two congressmen — Republican Tom Marino of Pennsylvania and Democrat David Cicilline of Rhode Island — sent a [letter](#) to Delrahim and his counterpart at the FTC urging the federal agencies to update a previous [2007 joint report on real estate competition](#). The upcoming workshop will examine developments in the real estate industry since that report.

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