October 30, 2013

Via Electronic Delivery: http://www.regulations.gov.

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th Street, SW, Suite 3E-218
Mail Stop 9W-11
Washington, DC 20219
Re: Docket No. OCC-2013-0010

Robert deV. Frierson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551
Re: Docket No. R-1411

Robert E. Feldman, Executive Secretary
Attention: Comments
Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Re: RIN 3064-AD74

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Re: File No. S7-14-11

Alfred M. Pollard, General Counsel
Attention: Comments/RIN 2590-AA43
Federal Housing Finance Agency
Constitution Center, (OGC) Eighth Floor
400 7th Street SW
Washington, DC 20024
Re: RIN No. 2590-AA43

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW, Room 10276
Washington, DC 20410-0500
Re: RIN 2501-AD53

Re: Credit Risk Retention – Comments on the Revised Proposed Rule

Ladies and Gentlemen:

The Virginia Bankers Association (the "VBA")[1] is pleased to respond to the request for comment by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, the Federal Housing Finance Agency, and the Department of Housing and Urban Development (collectively, the "Agencies") on the Agencies' joint proposal (the "Revised Proposal") to revise the proposed rules the Agencies published in the Federal Register on April 29, 2011 (the "Original Proposal"), to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

The VBA appreciates the efforts undertaken by the Agencies to significantly revise the Original Proposal. Specifically, the VBA is pleased that the Agencies have proposed to revise

[1] The VBA represents banks of all sizes and charters and is the voice for Virginia's $500 billion banking industry and its 60 thousand employees. A significant majority of the VBA's members are banks with less than $1.0 billion in assets.

the qualified residential mortgage ("QRM") definition in the Original Proposal to align the QRM definition with the definition of qualified mortgage ("QM") as adopted by the Consumer Financial Protection Bureau (the "CFPB"). The Revised Proposal advances two different alternatives for defining QRM. Primarily, the Agencies "propose that a QRM would be a loan that meets any of the QM definitions" (the "Primary Proposal"). The Agencies also offer an "alternative approach, referred to as 'QM-plus,'" that would use the QM definition as a starting point for defining QRM, but would add, among other things, a minimum 30 percent down payment or equity requirement and various borrower credit history requirements (the "Alternative Proposal"). The Agencies have requested comment on both the Primary Proposal and the Alternative Proposal.

As detailed more completely below, the VBA supports implementation of the Primary Proposal, which will ensure that responsible Americans have access to the mortgage credit they need to become homeowners. Further, the VBA strongly opposes implementation of the Alternative Proposal, which would disqualify from the definition of QRM a large proportion of mortgages to lower- and middle-income applicants, in turn severely limiting the access of a substantial number of Americans, many of whom would be responsible borrowers, to the mortgage credit markets.

Primary Proposal

The VBA approves of the Agencies' equating a QRM to a QM in the Primary Proposal. As noted in the Revised Proposal, and by many commenters to the Original Proposal, QM is defined in such a way as to ensure the availability of credit to creditworthy borrowers while eliminating many higher-risk mortgage features such as negative amortization and interest-only payments. Additionally, the QM definition requires underwriters to engage in prudent underwriting practices while still allowing underwriters to consider a potential borrower's ability to repay in a holistic fashion rather than through strict debt-to-income and loan-to-value ratios. And, significantly, the Primary Proposal omits the Original Proposal's imposition of additional significant compliance burdens, primarily the imposition of credit history requirements that would have required a manual review of credit files, avoiding an increased expense to lenders which would ultimately have made loans more expensive to consumers. Thus, the QM definition effectively strikes a balance that will allow private lenders to make affordable and safe loans to creditworthy borrowers while ensuring that these loans are made in a responsible manner. Therefore, the VBA supports linking the QRM definition to the QM definition to ensure that balance is maintained while avoiding unnecessarily burdensome compliance requirements.

Alternative Proposal

The Alternative Proposal, on the other hand, is replete with many of the same types of requirements that made the Original Proposal untenable, particularly insofar as the Alternative Proposal requires a minimum 30 percent down payment. As noted by many commenters to the Original Proposal, including over 350 Members of Congress, Congress considered including a minimum down payment requirement in the statutory definition of a QRM and intentionally rejected that proposal. Thus, inclusion of a down payment requirement by the Agencies is inconsistent with the demonstrated congressional intent to exclude such a requirement. This is reason alone for rejection of the Alternative Proposal.

But additionally, the approach taken by the Alternative Proposal would put homeownership out of reach for many lower- and middle-income Americans who would otherwise be qualified borrowers. As noted by the American Bankers Association in its comments to the Original Proposal, a down payment requirement of even 20 percent would result in anywhere from 14.5 to over 20 percent of borrowers being ineligible for a QRM. A 30 percent down payment requirement would disqualify an even larger number of borrowers. Loans to these individuals would thus be more expensive and less available because of being subject to risk retention requirements. The end result would be that loans to a large percentage of borrowers, borrowers who would otherwise be considered low credit risks based on a myriad of other factors shown to be far more correlative to default risk than loan-to-value ratio, would not qualify as QRMs. Due to the additional expense attendant to the risk retention requirements, lenders would be less likely to offer these loans, and those loans that were offered would be significantly more expensive.

Finally, the Alternative Proposal revives the Original Proposal's strict credit history requirements, including disqualification from QRM status of a mortgage to any borrower who is currently 30 or more days past due on any debt or who has been 60 or more days past due on any debt in the previous 24 months. Not only would these requirements unnecessarily disqualify many otherwise creditworthy borrowers from receiving mortgages qualifying as QRMs, they would also require manual review of credit history files in lieu of automated reviews based on credit scores proven to be well-correlated with default risk. As noted above, the manual review of credit files would impose an increased cost for lenders, which would ultimately result in additional expense to borrowers. For all of these reasons, the VBA strongly objects to implementation of the Alternative Proposal.

Conclusion

The banking industry, through the American Bankers Association, has joined with a large number of consumer, real estate and civil rights groups to form the Coalition for Sensible Housing Policy. The Coalition has published a white paper on the Revised Proposal that provides a more detailed discussion of how the Primary Proposal protects the marketplace while ensuring borrowers have access to safe mortgages and highlights the flaws of the Alternative Proposal. The VBA fully endorses the Coalition white paper, which can be accessed at http://sensiblehousingpolicy.org/uploads/White_Paper.pdf.

For the reasons stated in this letter and the Coalition white paper, the VBA supports the Agencies' Primary Proposal to equate the definition of QRM to the CFPB's definition of QM, and strongly opposes the Agencies' Alternative Proposal to use a QM-plus definition of QRM that would include, among other things, a 30 percent down payment or equity requirement.

Thank you for your consideration of our comments.

Sincerely,

Bruce T. Whitehurst
President and CEO