Next Step®
Affordable Housing Done Right

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DEPARTMENT OF THE TREASURY
Office of the Comptroller of the Currency
12 CFR Part 43
Docket No. OCC-2013-0010
RIN 1557-AD40

FEDERAL RESERVE SYSTEM
12 CFR Part 244
Docket No. R-1411
RIN 7100-AD70

FEDERAL DEPOSIT INSURANCE CORPORATION
12 CFR Part 373
RIN 3064-AD74

FEDERAL HOUSING FINANCE AGENCY
12 CFR Part 1234
RIN 2590-AA43

U.S. SECURITIES AND EXCHANGE COMMISSION
17 CFR Part 246
Release Nos. 34-70277
RIN 3235-AK96

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
24 CFR Part 267
RIN 2501-AD53

October 30, 2013

Re: Joint Proposed Rule on Credit Risk Retention

Next Step® is an innovative social venture that mobilizes a national network of nonprofits to provide affordable housing solutions tailored to the needs of their communities. We call our proven system Affordable Housing Done Right: connecting responsible financing, comprehensive homebuyer education and a system for delivering high quality, sustainable factory built housing at scale. We believe factory built housing offers an exceptionally good, viable, green housing option for millions of Americans. Our network allows homeowners to achieve wealth by growing equity, preserving assets and replacing substandard mobile homes with new ENERGY STAR homes.

The proposed rules on credit risk retention are central to reshaping the mortgage markets to ensure that homebuyers receive safe loans that can be purchased by secondary market investors. We thank the Agencies for responding to the concerns expressed by Next Step and its members, other consumer advocacy and affordable housing organizations, as well as many housing, real estate and mortgage professionals, regarding the original proposal's impact on the availability and affordability of mortgage credit. Our comments on specific aspects of the new proposed rules address many of the specific questions posed by the Agencies:

Question 90: Does the proposal reasonably balance the goals of helping ensure high quality underwriting and appropriate risk management, on the one hand, and the public interest in continuing access to credit by creditworthy borrowers, on the other?

Overall, the approach taken by the agencies is appropriate and will support a healthy housing market that is accessible to lower-income and first time and LMI homebuyers and a safe investment for investors worldwide. While the first proposal would have created a class of extremely low-risk mortgages, it would have done so by excluding most safe and performing mortgages from the secondary markets. However, by aligning the requirements for Qualified Residential Mortgages (QRMs) with the already-finalized requirements for Qualified Mortgages, the Agencies will ensure that there is less disparity between loans that are safe and attractive to homebuyers and loans that are safe and attractive to secondary market investors.

The new proposal takes several measures to maintain broad access to homeownership. These include standards for exemption from risk retention requirements that support LMI families' ability to achieve financial security and build wealth through homeownership, including:

- Exempting Federal Housing Administration (FHA) and Department of Agriculture-(USDA) guaranteed loans, other federally-backed mortgages, and loans made by the GSEs or their government-backed successor entities from risk retention requirements;
- Incorporating QM's Ability-to-Repay requirements and a realistic debt-to-income (DTI) ratio into the risk retention-exempt QRM standard; and
- Rejecting the original proposal's minimum 80% LTV requirement, which would have made down payments nearly impossible for middle-class families to accumulate.

The proposal also improves on the original proposal when it comes to manufactured homes, a particular concern of Next Step and its members. The QM rule, as finalized and amended, is a huge step forward for the federal treatment of manufactured home finance because it acknowledges that regardless of whether a home is titled as personal property or real property, the buyer deserves to receive a high-quality, well-underwritten loan that is subject to the same regulatory regime as a traditional mortgage..

Question 91: Will the proposal, if adopted, likely have a significant effect on the availability of credit? Please provide data supporting the proffered view.

For the mortgage market as a whole, the credit risk retention proposed rule does not appear likely to restrict the availability of credit. By aligning QRM with QM, the Agencies create a unified standard for mortgage lenders and investors to follow, which should prevent further credit constrictions.

With regard to manufactured housing, the Agencies' proposal has the potential to increase the availability of credit in the long-run. The large majority of manufactured homes are titled as personal property and financed as chattel. There is currently not a healthy or robust secondary market for these loans, and lenders must largely hold them in portfolio. The original risk retention proposal would only have extended QRM eligibility to manufactured homes titled as real property. However, the alignment of QRM with QM addresses that problem. Under the new proposal, in cases where borrowers receive high-quality, well-underwritten, safe chattel loans, lenders can be exempt from risk retention requirements.

It is important to note, however, that while the new proposed rules for credit risk retention facilitates the existence of a secondary market for chattel loans backed by manufactured homes, it is unlikely that such a market will develop without support from Fannie Mae and Freddie Mac or their successor entities. In fact, the Housing and Economic Recovery Act of 2008 (HERA) recognized the necessity of support from the government sponsored enterprises (GSEs) in ensuring the flow of credit for manufactured home sales by establishing that the GSEs have a "duty to serve" that market. The Federal Housing Finance Agency (FHFA) has not finalized duty to serve (DTS) regulations, and very few chattel loans are securitized. Although the Agencies' proposed credit risk retention rule has the potential to increase the availability of credit for buyers of manufactured homes, this is unlikely to occur until FHFA issues final DTS regulations. Furthermore, the proposed DTS regulations released in 2009 exclude chattel loans altogether. This is problematic, given that the industry is nearly 75% chattel. Therefore, while FHFA should prioritize finalizing DTS regulations that include high-quality, affordable, safe chattel loans, we also thank the Agencies for issuing QRM regulations that include chattel loans.

92(a). Is the proposed scope of the definition of QRM, which would include loans secured by subordinate liens, appropriate? (b). Why or why not? (c). To what extent do concerns about the availability and cost of credit affect your answer?

It is appropriate for loans secured by subordinate liens to be eligible for QRM status, as long as those loans meet other QRM requirements. Next Step support this aspect of the proposal because of the role that second liens play in enabling homeownership for LMI families. Second liens are often used by affordable housing organizations, including state and local housing agencies, to fund down payments or home improvements, such as weatherization. Providing the ability for these loans to obtain QRM status will support the availability of mortgage credit for LMI borrowers.

93(a). Should the definition of QRM be limited to loans that qualify for certain QM standards in the final QM Rule? (b). For example, should the agencies limit QRMs to those QMs that could qualify for a safe harbor under 12 CFR 1026.43(e)(1)? Provide justification for your answer.

Next Step is concerned by the Agencies' proposal to allow higher-priced QMs to be pooled and securitized together with non-higher-priced QMs. Higher-priced QM loans have higher prices because they are higher risk, and therefore should not enjoy the same exemption from risk retention as non-higher-priced QMs. Originators' legal liabilities under rebuttable presumption (compared to safe harbor) could result in elevated levels of forced buybacks of securitized loans, which has the potential to undermine investors' confidence in the QRM label.

Next Step recommends that the Agencies study further the impact that excluding from QRM eligibility higher-priced QMs, including chattel loans for manufactured homes, would have on the availability of mortgage credit to LMI buyers. It is possible that entirely excluding higher-priced QMs from QRM eligibility would unduly restrict LMI families' access to homeownership. If that is the case, it may appropriate to allow these loans to be QRM but prohibit investors from packaging them in securities with non-higher-priced QMs.

97(a). Does the QM-plus approach have benefits that exceed the benefits of the approach discussed above that aligns QRM with QM? For example, would the QM-plus approach favorably alter the balance of incentives for extending credit that may not be met by the QM definition approach or the QRM approach previously proposed? 97(b). Would the QM-plus approach have benefits for financial stability?

The "QM-plus" approach would cause a dramatic restriction of credit availability and an increase in interest rates. There was a remarkable level of consensus among consumer advocates and mortgage finance professionals that the originally proposed 80% LTV was overly restrictive. According to analysis from the University of North Carolina Center for Community Capital, "[requiring] an 80 percent LTV would exclude 60 percent of QM loans from the QRM market," excluding 10 performing loans for every foreclosure prevented by the stricter standards.[1] This study demonstrates the devastating impact that the original QRM proposal would have had on the availability of credit, as well as the limited benefit that strict LTV requirements confer. In comparison, the QRM-plus approach's 70 percent LTV would be even more restrictive, leading to significant reductions in the availability of credit and reducing liquidity in the capital markets. The consequences would be severe for the economy as a whole as well as for individual households. With regard to manufactured home loans, the QRM-plus approach would negate the benefits of aligning QRM and QM by prohibiting loans backed by personal property-titled homes. For these reasons, Next Step urges the Agencies to reject the alternative QRM approach described in the proposed rule.

Thank you for the opportunity to comment on the re-proposed credit risk retention rule. The new proposal would create a regulatory regime that balances the need to facilitate the flow of affordable mortgage credit to LMI and middle class families with the need to support a robust and safe secondary market. It also builds on the Agencies' steps to bring manufactured housing finance into mainstream housing finance regulatory regime. These are welcome measures that will allow homeownership to continue its role as a cornerstone of the American Dream and a source of wealth and security for families at all income levels.

Sincerely,

Stacey Epperson
President & CEO, Next Step Network

[1] Quercia, Roberto, Lei Ding, and Carolina Reid. "Balancing Risk and Access: Underwriting Standards for Qualified Residential Mortgages." University of North Carolina Center for Community Capital. January 2012. Available at: http://ccc.sites.unc.edu/files/2013/02/QRM_Underwriting.pdf

