October 30, 2013

Mr. Robert deV. Frierson
Secretary
Board of Governors of the
Federal Reserve System
Washington, DC 20551

Robert E. Feldman
Executive Secretary
Federal Deposit Insurance Corporation
Washington, DC 20429

Mr. Alfred M. Pollard
General Counsel
Federal Housing Finance Agency
Washington, DC 20552

Ms. Elizabeth M. Murphy
Secretary
Securities and Exchange Commission
Washington, DC 20549

Rules Docket Clerk
Office of the General Counsel
Department of Housing &
Urban Development
Washington, DC 20410

Legislative and Regulatory Activities Division
400 7th St., SW, Suite 3E-218, Mail Stop 9W-11
Office of the Comptroller of the Currency
Washington, DC 20219

RE: Proposed Rulemaking on Credit Risk Retention Requirements

Office of the Comptroller of the Currency
Docket Number OCC-2013-0010
RIN 1557-AD40

Federal Reserve System
Docket No. R-1411
RIN 7011-AD70

Federal Deposit Insurance Corporation
RIN 3064-AD74

Securities and Exchange Commission
Release No. 34-70277
RIN 3235-AK96

Federal Housing Finance Agency
RIN 2590-AA43

Department of Housing and Urban Development
RIN 2501-AD53

Dear Sir/Madame:

Thank you for the opportunity to comment on the revised proposed rule implementing the risk retention requirements and Qualified Residential Mortgage exemption established by the Dodd-Frank Act.

This comment is submitted by the Center for American Progress (CAP) and the other undersigned organizations and individuals. CAP is a progressive, nonpartisan think tank dedicated to improving the lives of Americans through ideas and action. CAP's housing team aims to preserve access to credit for all communities, prevent foreclosures, stabilize neighborhoods, and provide access to affordable, safe, and energy efficient rental housing. CAP also convenes the Mortgage Finance Working Group, which brings together experienced housing finance experts, affordable housing advocates, and leading academics. The group has been gathering since 2008 to better understand the causes of the mortgage crisis and create a framework for the future of the U.S. mortgage finance system.

We commend the Board of Governors of the Federal Reserve, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Securities and Exchange Commission, the Department of Housing and Urban Development, and the Office of the Comptroller of the Currency for their willingness to re-propose this rule to ensure that access to credit is not unnecessarily constrained.

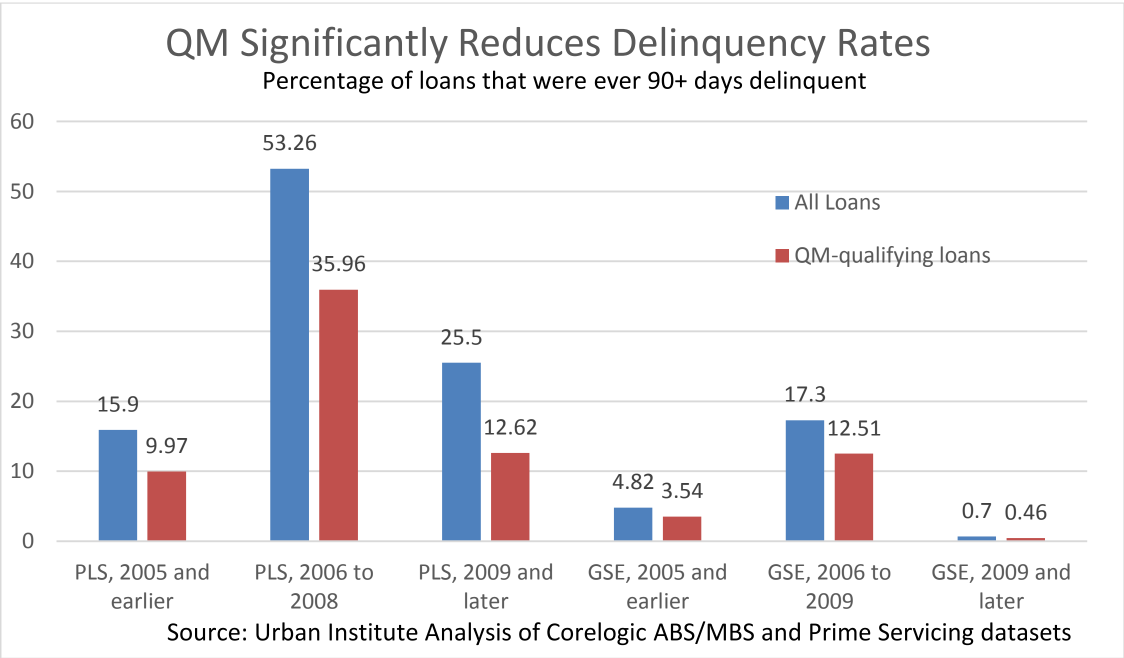
We strongly support the proposal to align the definition of a Qualified Residential Mortgage (QRM) with that of a Qualified Mortgage (QM), which we believe ensures both mortgage safety and ample access to credit, keeps mortgage rates affordable, reduces compliance costs, and accurately reflects congressional intent. We do not support the alternative proposed standard for a QRM ("QM-Plus"), which we believe could significantly decrease access to credit, make mortgage lending more expensive, and have a disproportionate effect on first-time homebuyers and buyers of color. Below, we discuss our views in more detail.

1. **The "QM equals QRM" standard will ensure that only safe loans are securitized while also allowing adequate access to credit for all qualified borrowers.**

By aligning the QM and QRM standards, regulators have proposed a standard that will discourage the securitization of risky loans while still ensuring that consumers can access credit on reasonable terms. Under the new QM standard, QRM loans will lack risky product features such as interest-only payments, negative amortization, or (generally) balloon payments and prepayment penalties. The limits on points and fees also will discourage risky lending.

Additionally, the overall Ability-to-Repay rule, which applies to all loans whether securitized or not, requires lenders to document and verify a borrower's income, assets, debts, and other obligations, and new appraisal rules will help discourage inaccurate or fraudulent appraisal practices. Together, these restrictions will prevent the securitization of the type of predatory and unsustainable loans that inflated the housing bubble and led to the subsequent foreclosure crisis.

Data from the Urban Institute demonstrates that the QM standard results in loans that are generally safe and sustainable.[1] Using a relatively liberal standard for default—whether a loan has ever been 90+ days delinquent—this data shows that across all buckets of loans and time frames, QM-qualifying loans perform significantly better than the overall loan population.[2]



2. **The "QM equals QRM" standard provides better regulatory certainty, lower compliance costs, and more affordability for borrowers.**

By aligning the two key exemption definitions contained in the Dodd-Frank Act mortgage rules, this proposal will decrease the compliance cost and regulatory burden for participants in the housing finance system and also will likely improve actual compliance. Eliminating the need to work with two similar but not identical standards will free up corporate resources to focus on the

[1] Laurie Goodman, Ellen Seidman, and Jun Zhu, "QRM, Alternative QRM: Loan default rates," The Urban Institute, 2013, available at http://blog.metrotrends.org/2013/10/qrm-alternative-qrm-loan-default-rates/. The Urban Institute analysis analyzed the performance of loans in private label securities, in GSE securities, and held on portfolio. In this way, the analysis gives a more complete picture of the performance of loans than the study referenced by the regulators in the proposed rule (by SEC economists Write and Bauguess), which only considered the performance of loans in private label securities. For further critique of Write and Bauguess's methodology, see http://ccc.sites.unc.edu/files/2013/10/Risk-Access-and-QRM-9-13.pdf

[2] The Urban analysis also notes that defining default as the termination of loans (which includes liquidation with a loss, being real estate owned, or having no payment for 24 months) demonstrates even more clearly the safety of QM loans.

most important safeguard for borrowers, which is strict compliance with the now-combined standard.

Second, the standard will lower costs for borrowers and lenders, both because of the lower compliance costs noted above, and because the universe of loans without risk retention will be larger. Even if the direct costs of risk retention are about or below 30 basis points (as the agencies have suggested), indirect costs must be considered, and risk retention will result in higher priced mortgage credit.

3. The "QM equals QRM" standard better aligns with congressional intent.

The proposed QRM standard, which does not include a down payment requirement, aligns with congressional intent. The statute does not include down-payments on the list of underwriting and product features the regulators were to consider. Indeed, during the legislative process, an amendment that sought to require a small down payment of 5% for QRM loans was voted upon and rejected by the Senate. [3] What's more, the authors of the QRM amendment itself (Sens. Landrieu, Hagan, and Isakson) have publicly stated that they intentionally excluded a down payment requirement from the QRM standard.[4]

4. The QRM exemption should not be limited to "safe harbor" QM loans.

You have asked whether the QRM equals QM standard should be limited to just "safe harbor" QM loans. We do not believe this would be wise. In our view, the original intention of QM was to provide one uniform standard for especially safe loans, and the CFPB has made the choice to bifurcate that standard with respect to liability. The question of liability is not at issue in the risk retention context, and in our view, both safe harbor and rebuttable presumption QM loans meet the necessary standard for safe lending. There should also be no distinction between safe harbor and rebuttable presumption loans for the purposes of creating MBS pools.

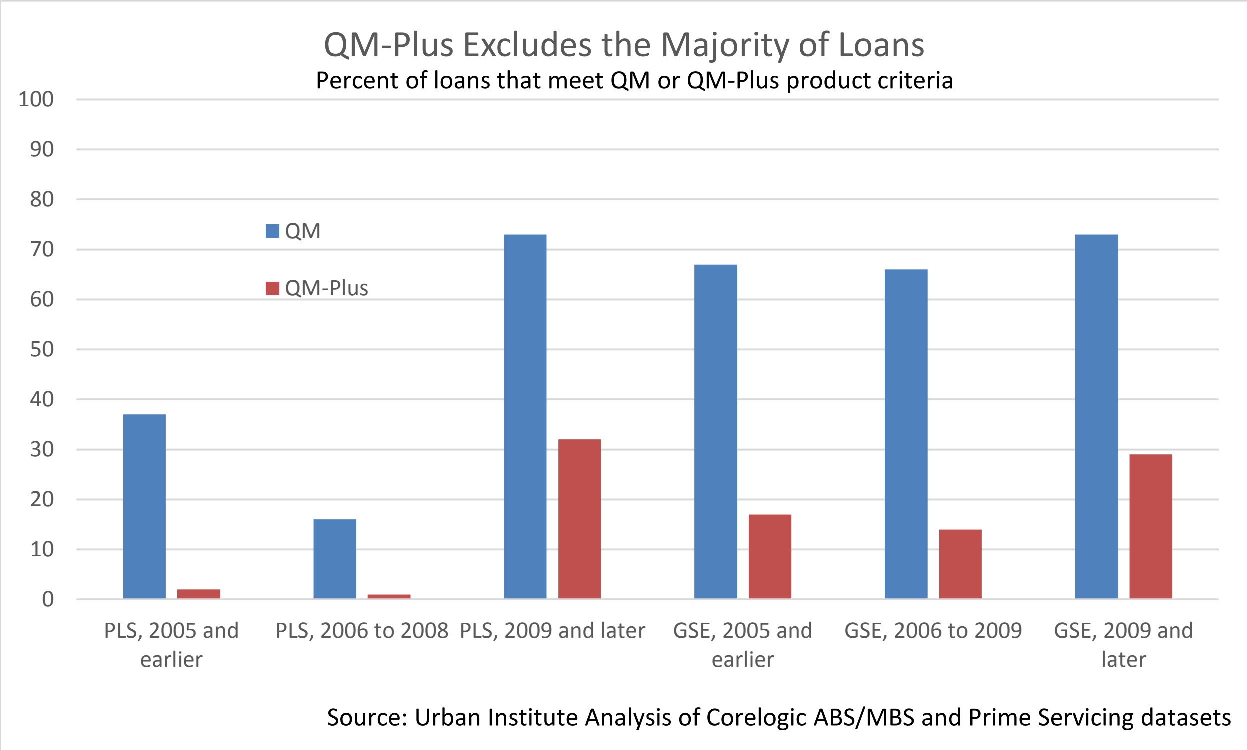
5. The QM-Plus Alternative Standard Significantly Decreases Access to Credit

You have asked for comment on an alternative, stricter standard for QRM, with the nickname "QM-Plus." We believe that the QM-Plus standard would significantly decrease access to credit and raise costs for borrowers without significantly contributing to additional safety and sustainability.

Data from the Urban Institute illustrates the stringency of the QM-Plus standard. Even with the strict underwriting standards we have seen in recent years, only 32 percent of loans in private

[3]Amendment N. 3956, 156 Congressional Record S3575 (May 12, 2010). The amendment was co-sponsored by Senators Hagan, Warner, Menendez, Tester, Lincoln, Levin, Burr and Hutchison.
[4] U.S. Senate Committee on Small Business and Entrepreneurship, "Landrieu, Hagan, Isakson Express Concern Regarding Risk Retention Provisions of Wall Street Reform legislation," Press Release, available at www.sbc.senate.gov/public/index.cfm?p=PressReleases&ContentRecord_id=1b4ab53e-7334-4c87-ba57-3f8e6fd0736f

label securities and 29 percent of loans in GSE securities originated since 2009 meet the QM-Plus standard.[5]



The down-payment requirement in the QM-Plus standard is particularly onerous and will exclude a significant portion of the market. Analysis of National Association of Realtors data shows that from 2006 to 2012, 92 percent of first-time buyers and 77 percent of repeat buyers made a down-payment of less than 30 percent.[6] Similarly, the Urban Institute has shown that 50 percent of PLS, 51 percent of GSE, and 38 percent of bank portfolio QM-qualifying home purchase loans from 2009 and on do not qualify for QM-Plus because of the LTV requirements.[7] Notably, this requirement would disproportionately affect homebuyers of color: as the chart below illustrates, it would take the average African-American 72 years to save for a 30 percent down payment compared to 44 years for the average Caucasian.

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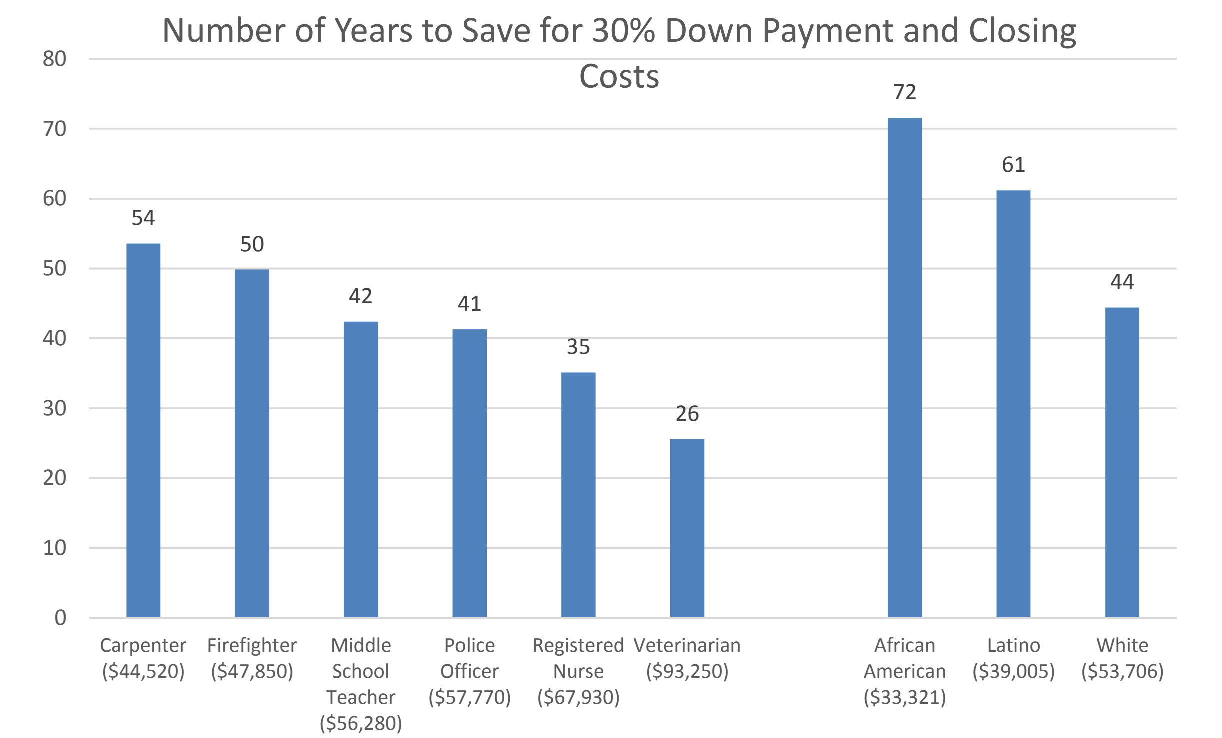
[5] Laurie Goodman, Ellen Seidman, and Jun Zhu, "QRM vs. Alternative QRM: Quantifying the Comparison," The Urban Institute, 2013, available at http://blog.metrotrends.org/2013/10/qrm-vs-alternative-qrm-quantifying-comparison/

[6] Analysis based on NAR Home Buyer and Seller Survey

[7] Goodman, Seidman, and Zhu, "QRM vs. Alternative QRM"



Estimates assume annual savings rate of 5.2%, half of which goes towards down payment and closing costs; closing costs of 5%; and average home cost of $177,200. Sources: Census Bureau 2012 Median Income by Race, Bureau of Labor Statistics May 2012 Annual Mean Wage by Occupation, NAR 2012 Median Home Sale Price.

Given the extremely tight lending environment we have seen in recent years, the agencies are correct to be concerned about imposing further constraints on mortgage credit availability through an onerous down payment requirement.[8] Indeed, as new households and homebuyers of color will drive home demand in the coming years,[9] a rule of this nature could have very serious consequences for the health of the mortgage market and larger economy, let alone the homeownership rates and wealth-building prospects of America's families. We have similar concerns about adding any credit history requirement to the rule.

Finally, while the limitation on piggyback liens or the exclusion of vacation homes might offer some modest safety advantages, we believe the benefits to the entire market of one identical standard outweigh the benefits conferred by limitations on categories of loans that are generally not securitized as frequently as first-lien mortgages on one-to-four family properties.

[8] By opposing the inclusion of a down-payment requirement in the regulation, we are not suggesting that market participants should always disregard down payments, which can be an important factor for loan performance under certain circumstances. This information, however, is already readily available for review by securitizers and investors, enabling those parties to make informed investment decisions without requiring a specific level to be hard-coded into the regulations.

[9] George S. Masnick, Daniel McCue, and Eric S. Belsky "Updated 2010-2020 Household and New Home Demand Projections" Working Paper W10-9 September 2010 Harvard Joint Center for Housing Studies, available at www.jchs.harvard.edu/sites/jchs.harvard.edu/files/w10-9_masnick_mccue_belsky.pdf

Conclusion

Thank you again for the opportunity to comment and for re-proposing the risk retention rule. We strongly support defining QRM as a QM mortgage, and we urge you to use that standard in the final rule rather than the QM-Plus standard.

Sincerely,

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