From:	Limehouse Koch, Kristin
To:	Comments
Subject:	RIN 3064-AD74 - Credit Risk Retention
Date:	Tuesday, August 02, 2011 2:43:25 PM

Mr. Feldman,

The following comments are submitted on behalf of International Bancshares Corporation ("IBC"), a multi-bank financial holding company headquartered in Laredo, Texas. IBC maintains over 278 facilities and more than 440 ATMs, which serve 107 communities in Texas and Oklahoma. IBC is the largest Hispanic-owned financial holding company in the continental United States with over $12.2 billion in assets. IBC is a publicly-traded holding company.

The purpose of this letter is to address the proposed rule on Credit Risk Retention (the "Proposal"). IBC and its subsidiary banks originate a substantial number of residential mortgage loans each year and so will be greatly affected by the Proposal.

IBC understands that the recent housing and financial crisis requires renewed attention on improving underwriting and halting unscrupulous lending practices. However, we must be extremely careful that efforts to eliminate harmful lending practices do not inflict irreparable harm to legitimate lending operations, which are the lifeblood of our local communities. Unfortunately, the Proposal, and specifically the strict definition of Qualified Residential Mortgage ("QRM"), will severely choke off the flow of credit to legitimately qualified borrowers, at the very moment that our country needs good credit to strengthen the still weak economy. The Proposal has the potential to create a system in which high income, sterling credit borrowers have easy access to securitized loans with low interest rates, while the majority of borrowers are offered only high interest loans that banks are forced to retain in their own portfolios.

IBC understands that Section 15G of the Dodd-Frank Act imposed certain limitations on your ability to craft these regulations. However, the Proposal goes significantly beyond Dodd-Frank in four critical areas: borrower's credit history, loan-to-value ratio, down payment, and loss mitigation. The Proposal unnecessarily imposes onerous requirements in each of these areas.

Borrower's Credit History

The Proposal requires that in order for a loan to qualify as a QRM, the lender must verify that the borrower (i) is not currently 30 or more days delinquent on any debt, (ii) has not been 60 days or more delinquent on any debt in the previous two years, and (iii) has not been in bankruptcy or had any property repossessed, foreclosed on or subject to a short sale in the previous three years. We strongly agree with the U.S. House of Representatives Committee on Financial Services, who wrote in their letter dated April 15, 2011, that these provisions are "far too strict" to meet the intended purpose of the Dodd-Frank Act. The economic crisis has forced millions of hard working Americans into personal debt problems due to a loss of job and other causes that are often temporary. To deny these citizens the right to a reasonably priced home loan because of circumstances that are beyond their control and temporary serves no purpose other than to punish.

IBC strongly recommends amending the Proposal to lengthen the number of days past due for debts that would disqualify a borrower. We would suggest limiting QRM to borrowers that are not currently 60 or more days delinquent on any debt and have not been 90 days or more delinquent on more than any three debts in the previous two years. Also, a borrower's collections or charge offs could be capped at a cumulative total of $1,500.

IBC always takes a borrower's credit history into account when making its underwriting decisions, but certain factors should weigh more heavily than others. Professor Elizabeth Warren, Special Advisor to the Secretary of the Treasury, once estimated that medical debts cause close to half of all personal bankruptcies. Lenders often discount the importance of medical debts because they understand that those debts do not reflect on a debtor's character. Therefore, IBC recommends that medical debts be excluded entirely from the definition of debts under the QRM eligibility rules, or, at a minimum, the number of medical collections should be limited to an aggregate total of $5,000.

Loan-to-Value Ratio and Down Payment

While we agree that certain down payment requirements are necessary to induce a personal commitment on the part of borrowers to repay their debts, the 20% down payment requirement and the 80% loan-to-value limit on mortgages to purchase a home would exclude far too many qualified borrowers. The median price of a home in Texas in 2009 was $145,800, which would require a down payment of $29,160. The median household income at that time was $48,259, which would mean that a typical family would require a cash payment of more than half of one year's salary.

New Section 129C of the Truth in Lending Act, added by Dodd Frank, instructs the banking agencies to prescribe regulations that are "necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers." The 20% down payment requirement and the 80% LTV limit will virtually guarantee that "responsible, affordable mortgage credit" will be denied to hundreds of thousands of credit worthy homeowners. At a minimum, the LTV should be increased to 90% and the use of mortgage insurance should be recognized in the QRM eligibility rules.

Loss Mitigation

IBC strongly disagrees with the proposed loss mitigation requirements, which would dictate the time and manner in which lenders must conduct "loss mitigation activities" in the event of a borrower default. This rule, not required by Dodd Frank, goes far beyond the legislation's purpose of mitigating risks in the MBS market.

IBC's banks continually work with borrowers before resorting to foreclosure, because targeted loan modifications can work to the advantage of both borrower and lender. However, the decision of whether to modify a loan is a highly complicated, fact specific endeavor. To dictate that banks must always conduct loan modifications based solely on whether the net present value of the proceeds realized by such activities would exceed the value of a recovery through foreclosure is a gross interference in a private loan transaction and an unworkable standard. Specifically, the term "loss mitigation activities" is a broadly encompassing term that is not defined in the rules. This lack of clarity is likely to result in excessive examiner discretion, with widely varying results for similarly situated banks. Furthermore, the ambiguity with regard to "loss mitigation activities" could fuel litigation. Ultimately, banks will experience greater compliance costs as they attempt to find the correct balance between assisting distressed borrowers and managing the collection activities and inherent risk in their mortgage portfolios. In addition, there will be higher legal costs due to either more litigation or more paperwork to avoid such litigation.

Finally, please remember that there are extensive state laws governing the rights and remedies of parties to a residential loan transaction in Texas and Oklahoma. By imposing federal rules in this area, the proposal takes the extraordinary step of preempting state real property law. This is a highly unusual and potentially unlawful result that should be avoided, especially considering that the original reason for the Proposal—the risks inherent in the mortgage-backed securities market—would not be improved by dictating loss mitigation strategies.

IBC supports the agencies' efforts to draft strong regulations for the mortgage-backed securities market. But we implore you to adhere to Dodd Frank's statutory language by removing or limiting the requirements for borrower's credit history, LTV and down payment requirements, and the loss mitigation rules. Each of these proposals has the potential to drastically reduce credit for middle class and low income borrowers and deal a crushing blow to an already shaky economic recovery.

Thank you for the opportunity to comment.

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