

United States Senate

WASHINGTON, DC 20510

COMMITTEES
COMMERCE, SCIENCE AND
TRANSPORTATION
FOREIGN RELATIONS
SELECT COMMITTEE ON INTELLIGENCE
SMALL BUSINESS AND
ENTREPRENEURSHIP

June 29, 2011

The Honorable Ben S. Bernanke
Chairman, Board of Governors
The Federal Reserve System
20th Street & Constitution Avenue, N.W.
Washington, D.C. 20551

The Honorable Shaun L. S. Donovan
Secretary, U.S. Department of
Housing and Urban Development
451 7th Street, S.W.
Washington, D.C. 20410

The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, D.C. 20429

The Honorable Mary L. Schapiro
Chairman
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, D.C. 20549

The Honorable Timothy F. Geithner
Secretary
U.S. Department of the Treasury
1500 Pennsylvania Avenue, N.W.
Washington, D.C. 20220

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, N.W.
Washington, D.C. 20552

Mr. John G. Walsh
Acting Comptroller
Office of the Comptroller of the Currency
250 E Street, S.W.
Washington, D.C. 20219

Re: Qualified Residential Mortgage (QRM) and Qualified Mortgage (QM) Rules

Ladies and Gentlemen:

As you know, Florida's economy continues to struggle with a battered housing market and an unemployment rate well above the national average.

Unfortunately, I hear from scores of constituents every day who are suffering under the weight of Washington's regulatory agenda. More than 34,000 pages of new regulations have been added to the Federal Register this calendar year alone. Individuals, families, and businesses are spending more and more valuable time and resources on government paperwork – not on creating jobs and growing the economy.

I write in part to express my reservations with the proposed Risk Retention and Qualified Residential Mortgage (QRM) rule pursuant to Section 941 of H.R. 4173, the Dodd-Frank Wall Street Reform and Consumer Protection Act, a 2,000+ page piece of legislation that became law before I was a member of the Senate. The onerous and narrow nature of the draft QRM rule is one of many concerns I have with the sweeping nature of the Dodd-Frank bill.

The proposed rule would require a 20 percent down payment for mortgages to be classified as a qualified residential mortgage (QRM), a threshold that will likely force millions of Floridians to bear the costs associated with new risk retention rules in Dodd-Frank. Other conditions for a mortgage to qualify as a QRM under the draft rule include strict guidelines related to both credit history and debt-to-income requirements.

It is my belief that the draft rule contains an overly-narrow definition of QRMs, which seems to have missed the goals intended by the authors of Section 941. Unless broadened, the rules will almost certainly raise the cost of homeownership and restrict access to credit. These negative effects would come at precisely the wrong time for Florida's housing market.

I am also concerned with the Federal Reserve Board's recently-proposed qualified mortgage (QM) rule pursuant to Title XIV of Dodd-Frank and its interaction with the draft QRM rule. Unless the QM rule is broadly-defined and a safe harbor is provided for loans that fall within the QM definition, lenders will be faced with uncertainty and the significant legal risks associated with making mortgage loans under existing law.

Since six federal agencies will have defined QRM loans as being well-underwritten, compliance with the QRM definition will serve as a backstop against QM liability. Even if a lender were to make a non-QRM loan, the increased costs associated with that loan may cause it to be classified as a "high cost" loan under Dodd-Frank, increasing legal liability and further shrinking any available mortgage credit in Florida.

Finally, the draft QRM rule would exempt loans guaranteed by the government-sponsored enterprises (GSEs), Fannie Mae and Freddie Mac, while they remain in conservatorship. I am troubled that the combination of the proposed QM and QRM rules and this exemption will make the market even more dependent on the federal government, which already supports 97 percent of the mortgage market, and which holds trillions more in unsustainable guarantees that carry an immense risk to taxpayers.

Thank you for taking my concerns into consideration with regard to the QRM and QM rules. I look forward to working with you to ease the burden of government regulation on my constituents and our nation as a whole.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Rubio', with a long horizontal flourish extending to the right.

Senator Marco Rubio
United States Senator