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President and CEO

February 17, 2011

FDIC
FEB
OFFICE OF THE CHAIRMAN

VIA FEDERAL EXPRESS

The Honorable Sheila Bair
Chairman
Federal Deposit Insurance Corporation
551 17th St., NW
Washington, D.C. 20429-9990

Re: Qualified Residential Mortgage Loan Risk Retention under the Dodd-Frank Act

Dear Ms. Bair:

I am writing on behalf of NYCB Mortgage Company, LLC, a wholly owned subsidiary of New York Community Bank, to share concerns about a recent proposal to steer federal regulatory agencies towards an anti-competitive, anti-community bank interpretation of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act").

Section 941 of the Dodd-Frank Act (Pub.L. 111-203) requires that loan originators retain not less than five percent of the credit risk for loans that are originated and securitized – a provision that, without important exceptions, would affect the vast majority of residential mortgage loans originated in this country. Importantly, however, a bi-partisan Congress also recognized the need for an exception that would ensure that lenders who serve qualified residential loan consumers are not driven out of the market, and prices for traditionally safe mortgage loans are not unnecessarily inflated. Exempting such "qualified residential mortgage" loans is important to ensure affordable credit is available to borrowers who traditionally are less likely to default (for example, those with higher FICO scores, solid debt-to-income ratios, verified assets needed to close, and acceptable cash down payments).

In accordance with Section 941 of the Act, your agency, in conjunction with the Federal Housing Finance Agency, the Securities and Exchange Commission, the Consumer Financial Protection Bureau, and the Federal Deposit Insurance Corporation, are writing regulations to implement the risk retention requirements, including standards to be used in determining which mortgages will satisfy the QRM exemption.

We are aware that one very large banking institution is seeking to influence the efforts of several Federal banking regulators by steering the agencies toward a narrow definition of "qualified residential mortgage" that would apply only a single threshold: only mortgages with a loan-to-value ratio of 70% or less would be exempt from the Dodd-Frank risk-retention requirements[1]. Under such a proposal, many borrowers who would be considered "low-risk"

[1] In this regard, we support the view expressed by Representative Brad Miller in his recent letter to SEC Chair Mary Shapiro that the SEC should use care in assuring that any exception to the risk retention rules not defeat the purpose of the requirement. However, while the regulators should be vigilant in this regard, care should be taken particularly to avoid the potentially devastating unintended impacts of overly narrow constructions such as that put forward by Wells Fargo.

using empirically sound and prudential underwriting standards will not meet the QRM standard, and would therefore be unfairly subject to higher interest rates for their mortgages. The narrow construction of the QRM exemption would result in many low-risk loans widely offered by thousands of lenders being unnecessarily subject to the Dodd-Frank risk-retention standards, which will have the unintended consequence of dramatically limiting the funds available for such loans, thereby squeezing smaller lenders out of the competitive marketplace in favor of the nation's largest lenders.

A loan-to-value ratio certainly is not the only factor to be considered in determining the risk profile of a particular loan and often may be outweighed by other valid compensating factors considered prudent by lenders who make credit available for working Americans. If a single-factor narrow definition of QRM is adopted (for example, providing that only loans having an LTV ratio of 70% or less be included within the QRM definition), many low-risk loans will be excluded. Such a definition will have the opposite effect from what Congress intended: by excluding other low-risk indicators from the definition, more risk retention will be required for loans that actually present a *lower* risk profile. In order to avoid the market constriction and resulting economic harm this would cause to consumers, it is essential that a broader and well-reasoned definition of "qualified residential mortgage" be used.

Congress recognized that the regulatory agencies should have flexibility in establishing the qualified residential mortgage exception in order to ensure that credit remains available on reasonable terms. Section 941 adds a new section (e) ("EXEMPTIONS, EXCEPTIONS, AND ADJUSTMENTS") to Section 15F of the Securities Exchange Act of 1934, which provides that "The Federal banking agencies and the Commission may jointly adopt or issue exemptions, exceptions, or adjustments to the rules issued under this section, including exemptions, exceptions, or adjustments for classes of institutions or assets relating to the risk retention requirement . . . .". In addition to ensuring that exemptions, exceptions, or adjustments adopted by the agencies help ensure "high quality underwriting standards," new Securities Exchange Act Section 15F(e) provides that any exemption, exception or adjustment must "improve the access of consumers and businesses to credit on reasonable terms." It is clear to us that a single-factor narrow definition will very likely have the opposite effect.

We believe (and can demonstrate with empirical data) that a maximum loan-to-value ratio of 70% for a "qualified residential mortgage" would not encourage responsible lending practices. Rather, the essential key to ensuring responsible lending practices is to ensure that loan program, underwriting, and collateral valuation guidelines are well-considered and prudentially administered. In reality, any proposal limiting the scope of a "qualified residential mortgage" to a single factor most likely serves as nothing more than a self-serving ploy to increase costs, rates, and profit margins for residential mortgages, thereby increasing the overall market share controlled by massive banking institutions, and by extension further squeezing competition from smaller lenders and community banks.

New York Community Bank, and its mortgage lending subsidiary, NYCB Mortgage Company, LLC, employ a cohesive set of strong underwriting practices, including, without limitation, full income and required assets-to-close documentation, prudent debt-to-income ratios, strong FICO thresholds, independent collateral appraisal standards and procedures, and the requirement of credit enhancements such as private mortgage insurance. We strongly support a "qualified residential mortgage" definition based on these practices as a whole, and disagree that it should be limited to a single-factor narrow definition.

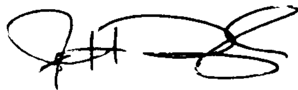
New York Community Bank is a New York State chartered savings institution with 242 locations in Metro New York, New Jersey, Ohio, Florida, and Arizona and is a sister-bank to New York Commercial Bank, which has 34 branches in New York City, Westchester County, and Long Island. Both banks are wholly-owned subsidiaries of New York Community Bancorp, Inc. Through NYCB Mortgage Company, LLC, we are a leading producer of affordable residential mortgage loans, satisfying a significant consumer credit need in this country. During 2010, our business originated over $10 billion in one- to four-family loans, virtually all of which was securitized in the secondary mortgage market and a significant portion of which likely would have required risk retention under a single-factor approach to Dodd-Frank Section 941 – despite the fact that the portfolio includes no sub-prime loans and consists of some of the strongest loans in industry. If a single-factor approach were followed, consumers would be paying higher rates for billions in residential mortgage loans produced during 2010.

As a consumer lender and a community bank with deep roots in our traditional markets and throughout the country, we are concerned that the single-factor proposal being put forward will have significant negative repercussions to both consumers and small to midsize mortgage lenders.

We urge you to direct your efforts to protect lenders and consumers from the actions of "too big to fail" financial institutions who appear to be seeking to write their anti-competitive views into the Dodd-Frank implementing regulations. Such views can only serve to constrain competition at the expense of the consumer and smaller bank competitors. The regulatory leadership should not allow "too big to fail" financial institutions to dictate the nation's policy going forward.

Thank you for your consideration and support.

Very truly yours,



Jon K. Baymiller
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