

October 29, 2013

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

**Docket No. OCC-2013-0010**

Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW  
Washington, DC 20551  
Attn: Robert deV. Frierson, Secretary

**Docket No. R-1411**

Federal Deposit Insurance Corporation  
550 17th Street, NW  
Washington, DC 20429  
Attn: Robert E. Feldman, Executive Secretary

**RIN 3064-AD74**

Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549-1090  
Attn: Elizabeth M. Murphy, Secretary

**File Number S7-14-11**

Federal Housing Finance Agency  
400 7th Street SW, Constitution Center, 8th Floor  
Washington, DC 20024  
Attn: Alfred M. Pollard, General Counsel

**RIN 2590-AA43**

Department of Housing and Urban Development  
Regulations Division  
Office of the General Counsel  
451 7th Street, SW, Room 10276  
Washington, DC 20410-0500

**RIN 2501-AD53**

RE: Credit Risk Retention

Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act

To Whom It May Concern:

On behalf of our more than 170 member banks located throughout the Commonwealth and New England, the Massachusetts Bankers Association (MBA) appreciates the opportunity to provide comments on the proposed rule implementing the requirements of section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") issued by the agencies on August 28, 2013. The revised proposal makes a number of substantive changes to the Agencies' original proposed rule that was issued in 2011, including a number of revisions suggested by MBA in our initial comment letter.

In particular, the revised proposal defines the term "qualified residential mortgage" (QRM), and aligns the standards for QRMs with the recently-finalized Consumer Financial Protection Bureau's (CFPB) Qualified Mortgage (QM) regulation. This alignment of the two standards is crucial for the majority of our membership. Additionally, revisions to the requirements around a number of underwriting standards, including minimum down payment requirements; debt-to-income ratios; and credit history will help ensure that our member banks can continue to offer a wide range of mortgage products that best meet the needs of their customers and their communities. MBA generally supports these changes and appreciates the Agencies addressing these issues in the revised proposal.

As the Agencies are aware, Massachusetts and New England have a large concentration of banks that specialize in mortgage lending. Strong underwriting criteria, compliance with federal and state consumer protection laws and robust internal controls and policies ensure that the loans made by our member banks are successful for the bank and the borrower. In fact, even now when delinquencies and foreclosures are driven more by high unemployment than particular loan features, Massachusetts and New England banks have far lower delinquency rates than many other regions of the country (.96% vs. 3.09% nationally). This is a testament to the safe and sound underwriting procedures our member banks continue to practice.

The proposed rule also requests comment on an alternative approach, labeled “QM-plus”. QM-plus would begin with the aforementioned criteria adopted by the CFPB rules, and then add four (4) additional factors. MBA has serious concerns with the QM-plus proposal and our detailed comments are below.

### **Alternative Approach – “QM-plus” Loans**

In addition to satisfying the core criteria of CFPB QM loans, QRMs under QM-plus would need to meet additional factors relative to credit history, lien status, loan-to-value (LTV) ratio, and property type. The MBA finds this proposed approach as inconsistent with the original proposal. The agencies directly ask, “Would the QM-plus approach have greater costs, for example in decreased access to mortgage credit, higher-priced credit, or increased regulatory burden?” The answer, in our opinion, is YES.

Most onerous in the QM-plus approach are the LTV restrictions. The proposed guidelines call for LTVs at closing to not exceed 70%, and that junior liens for non-purchase QRMs be included as fully drawn. The new proposal acknowledges that this LTV approach differs from the original proposal but is equivalent to the most conservative LTV level included in the original. Furthermore, the 70% guideline would force the majority of our members, already proactive yet conservative portfolio lenders, to adjust future lending practices. At a time when the economy continues to slowly recover from the 2008 recession, adoption of such standards would result in lenders leaving certain markets, and restricting consumer access to credit.

As noted in the new proposal, the QM-plus approach would cover a significantly smaller portion of the available mortgage market. Therefore, it logically follows that lenders may alter their strategic plans to ensure future originations fit into the coverage of the QM-plus umbrella. Furthermore, our members’ underwriting standards typically conform to the strict guidelines mandated by the secondary market. Factors such as credit history, LTV and property type already factor into pricing and are common, everyday practice.

The QM-plus proposal represents a minority viewpoint that is inconsistent with Congressional intent and that doesn’t support the vast majority of lenders presently serving the market. If the Agencies adopt the alternative approach, consumers would be denied the plethora of options available to them in a diverse and competitive market.

### **Conclusion**

As we stated above, MBA supports the agencies’ modifications to the original ruling that will streamline and standardize the definitions for QM and QRM loans. We believe that this change should facilitate strategic planning for member banks related to potential non-QM loans while ensuring that institutions are still able to offer a wide range of mortgage products with strong underwriting criteria that are not subject to the risk retention requirements in section 941 of the Dodd-Frank Act.

We also strongly urge the Agencies to monitor the availability of mortgage credit and the effect the QRM rule will have on the banking industry once it is finalized. MBA believes that the QRM requirements, along with the myriad of other regulatory changes in the mortgage lending area will have a

profound effect on the marketplace and that it is essential that these changes are undertaken cautiously and methodically, particularly as the housing market continues to improve after the economic crisis.

Finally, we strongly oppose the proposed alternative approach and urge the Agencies not to impose arbitrary underwriting, down payment and credit criteria on a broad range of traditional mortgages.

Thank you again for this opportunity to comment on the pending rule changes. Should you have any questions or require additional information, please contact me at (617)-502-3820 or via email ([bcraigie@massbankers.org](mailto:bcraigie@massbankers.org)).

Sincerely,

A handwritten signature in black ink, appearing to read "Ben Craigie", with a stylized flourish extending to the right.

Ben Craigie  
Director of Compliance