

January 30, 2020

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QRM Review Input Notice No. 2019-N  
Federal Housing Finance Agency  
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Federal Deposit Insurance Corporation  
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Regulations Division  
Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW, Room 10276  
Washington, DC 201410-0500

Cc: National Credit Union Administration

**Re: QRM Review – Credit Risk Retention**

Ladies and Gentlemen:

The undersigned organizations representing financial services, real estate finance, housing, consumer affairs, and civil rights appreciate the opportunity to respond to the notice of commencement of review of certain provisions of the Credit Risk Retention Rule<sup>1</sup> (“Notice”) issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, the Federal Housing Finance Agency, and the Department of Housing and Urban Development (collectively, the “Agencies”). We support the Agencies’ commitment to review the definition of “qualified residential mortgage” (“QRM”) and related provisions of the Credit Risk Retention Rule to consider, among other things, changes in the mortgage and securitization market conditions and practices as well as changes made to the “qualified mortgage” (“QM”) definition by the Consumer Financial Protection Bureau (“CFPB”). As explained further below, we ask the Agencies to delay the conclusion of this review until the CFPB finalizes its rule regarding the definition of QM.

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<sup>1</sup> Codified at 12 C.F.R. pts. 43, 244, 373, and 1234; 17 C.F.R. pt. 246; and 24 C.F.R. pt. 267. References in this letter to the Credit Risk Retention Rule are to 12 C.F.R. pt. 43 for simplicity.

The CFPB initiated a rulemaking, through the issuance of an advance notice of proposed rulemaking (“ANPR”),<sup>2</sup> to address the upcoming expiration of the category of loans that obtain QM status due to their eligibility for purchase or guarantee by either Fannie Mae or Freddie Mac (“GSE Patch”). The GSE Patch is scheduled to expire on January 10, 2021 and the CFPB indicated its intent to allow cessation of the Patch on that deadline or “after a short extension, if necessary, to facilitate a smooth and orderly transition...”<sup>3</sup> In the ANPR, the Bureau posed questions related to termination of the GSE Patch and other elements of the general QM definition. The CFPB comment period for the ANPR closed in September 2019, and it is expected that the agency will soon issue a notice of proposed rulemaking on QM.

As the Agencies are well aware, QM and QRM are linked by law. Specifically, the definition of QRM can be “no broader than” the definition of QM.<sup>4</sup> Therefore, to ensure the Agencies’ review of QRM is comprehensive and meaningful, *we urge the Agencies to delay completing their review at least until the CFPB’s QM rulemaking is complete.*<sup>5</sup>

In 2014, the Agencies defined QRM as “a ‘qualified mortgage’ as defined in section 129C of the Truth in Lending Act (15 U.S.C. 1639c) and regulations issued thereunder, as amended from time to time.”<sup>6</sup> The Agencies’ objectives in adopting this definition were to protect the marketplace and ensure broad access to mortgage credit. It is critical that investors are confident in the quality of mortgages underlying securitizations and that borrowers are able to obtain financing for sustainable loans. A broad coalition of lenders, insurers, real estate professionals, consumer advocacy organizations, and civil rights groups supported this definition and these objectives at that time. From all indications available, these objectives have been met thus far, and the mortgage finance industry is functioning well under this regime.

Whether the definitions of QRM and QM should continue to be the same or whether changes need to be made, however, are questions that cannot be answered at this time. It is only after the CFPB has made its final determination on the definition of QM, and following some period of experience under the new QM configurations, that the Agencies would be in a position to evaluate and seek comment on the market and consumer impacts of QM/QRM equivalency versus divergence of the definitions.

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<sup>2</sup> *Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z)*, 84 Fed. Reg. 37155 (July 31, 2019).

<sup>3</sup> *Id.* at 37155.

<sup>4</sup> 15 U.S.C. § 78o-11(e)(4)(C).

<sup>5</sup> The Credit Risk Retention Rule provides an opportunity for such a delay: “After completion of any review, but no later than six months after the publication of the notice announcing the review, unless extended by the agencies, the agencies shall jointly publish a notice disclosing the determination of their review.” 12 C.F.R. § 43.22(b).

<sup>6</sup> 12 C.F.R. § 43.13(a).

Thank you for the opportunity to comment on this Notice. We stand ready to work with the Agencies on this important review.

Sincerely,

American Bankers Association  
American Escrow Association  
American Land Title Association  
Asian Real Estate Association of America  
Center for Responsible Lending  
Community Home Lenders Association  
Community Mortgage Lenders of America  
Consumer Bankers Association  
Consumer Federation of America  
Credit Union National Association  
Durham Committee on the Affairs of Black People  
Housing Policy Council  
Independent Community Bankers of America  
Leading Builders of America  
Manufactured Housing Institute  
Mortgage Bankers Association  
National Association of Federally-Insured Credit Unions  
National Association of Hispanic Real Estate Professionals  
National Association of Home Builders  
National Association of Housing Cooperatives  
National Association of Real Estate Brokers  
National Association of REALTORS®  
National Community Reinvestment Coalition  
National Community Stabilization Trust  
National Council of State Housing Agencies  
National Fair Housing Alliance  
National Housing Conference  
National Housing Resource Center  
National NeighborWorks Association  
R Street Institute  
Real Estate Services Providers Council, Inc  
Securities Industry and Financial Markets Association  
Structured Finance Association  
The National Community Stabilization Trust  
The Realty Alliance  
U.S. Chamber of Commerce  
U.S. Mortgage Insurers