



July 28, 2011

Board of Governors of the Federal Reserve System  
Attn: Jennifer J. Johnson, Secretary  
20th Street and Constitution Avenue, NW  
Washington, DC 20551

Office of the Comptroller of the Currency  
250 E. Street S.W., Mail Stop 2-3  
Washington, DC 20219

Federal Deposit Insurance Corporation  
Attn: Comments, Robert E. Feldman,  
Executive Secretary  
550 17<sup>th</sup> Street, N.W.  
Washington, DC 20429

Department of Housing and Urban  
Development  
Regulations Division  
Office of General Counsel  
451 7<sup>th</sup> Street S.W., Room 10276  
Washington, DC 20410-0050

Federal Housing Finance Agency  
Attn: Alfred M. Pollard, Comments/RIN  
2590-AA43, Fourth Floor  
1700 G Street N.W.  
Washington, DC 20552

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

Re: Proposal to Establish Credit Risk Retention Requirements, Qualified Residential Mortgage Exemption

Ladies and Gentlemen:

The Minnesota Bankers Association (MBA) is a trade group representing nearly 400 Minnesota banks. The MBA membership includes a broad range of banks, from independent community banks to regional banking organizations operating in multiple states. As the champion for Minnesota bankers, we respectfully convey their concerns regarding the proposed rule to establish credit risk retention requirements mandated by Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.

While we appreciate the exemption for qualified residential mortgages (QRMs) from the five percent risk retention requirement, the MBA believes the definition of qualified residential mortgage (QRM) in the proposed rule was drawn too narrowly and would result in a significant decrease in available credit. It is clear from the letter to the agencies from the House Committee on Financial Services, dated April 15, 2011, that Congress did not intend such a narrow reading of Section 941.



9521 West 78th Street · Eden Prairie, MN 55344-3821

Phone: 952.835.3900 · MN Toll Free: 866.835.3900 · Fax: 952.896.1100 · [www.minnbankers.com](http://www.minnbankers.com)

The down payment requirement of 20% is particularly troubling. It would push far too many creditworthy borrowers into less affordable products without sufficient reason for doing so. The size of down payment is just one factor that can reduce the risk of default. There are many other factors to be considered when determining the risk of default. However, such a substantial amount would serve to push many well-qualified borrowers into more expensive products, which is not Congress' intent.

Our other areas of concern involve the requirement that a borrower cannot have been more than 60 days past due on any debt within the past two years, the debt-to-income ratios of 28 and 36%, and the credit history restrictions. We believe each of these standards alone is overly restrictive and combined will make QRMs available only for the most select borrowers. Such a result would be damaging not only to community banks and their customers, but also the real estate market in general as credit would be more expensive and less available.

Finally, the proposed loss mitigation requirements which are not required by Dodd-Frank are ill-conceived. Community banks work with their borrowers as much as possible to prevent foreclosure. Their loan modification decisions are made by reviewing the totality of circumstances. To create a bright line rule based on whether the present value of the proceeds exceeds the value of a recovery through foreclosure is an unnecessary intrusion in bank decision-making and is poorly considered. Minnesota has laws in place protecting homeowners' rights in foreclosure situations. Involving federal law in a state law area like foreclosure is problematic as preemption issues may arise as well as questions as to the constitutionality of government interference with private contracts.

We appreciate the fact that the Federal Reserve Board was faced with a difficult task in implementing the risk retention sections of Dodd-Frank. We believe the Board should do all it can to avoid restricting credit and harming community banks while working within the Dodd-Frank framework. We ask you to consider withdrawing the proposed rule and starting again with the goal of creating standards that are reasonable and that would not have such a disastrous impact on community bank real estate lending and the real estate market. We thank you very much for considering our input on the proposal to establish credit risk retention requirements. If you have any questions concerning this letter, do not hesitate to call me at (952) 835-3900.

Sincerely,

Tess Rice  
General Counsel



9521 West 78th Street · Eden Prairie, MN 55344-3821

Phone: 952.835.3900 · MN Toll Free: 866.835.3900 · Fax: 952.896.1100 · [www.minnbankers.com](http://www.minnbankers.com)