



**National
Urban League**

*Empowering Communities.
Changing Lives.*

October 30, 2013

Honorable Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
Washington, DC 20551

Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
Washington, DC 20429

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20552

Honorable Mary Jo White
Chair
Securities and Exchange Commission
Washington, DC 20549

Honorable Shaun Donovan
Secretary
Department of Housing
and Urban Development
Washington, DC 20410

Mr. Thomas J. Curry
Comptroller
Of the Currency
Washington, DC 20219

Re: Credit Risk Retention Proposed Rule

Transmitted electronically to www.regulations.gov regarding:

- OCC: (Docket No. OCC-2013-0010)
- Federal Reserve: (Docket No. R-1411)
- FDIC: (RIN 3064-AD74)
- SEC: (File Number S7-14-11)
- FHFA: (RIN 2590-AA43)
- HUD: (RIN 2501-AD-53)

Ladies and Gentlemen:

The National Urban League is a historic civil rights organization dedicated to economic empowerment in order to elevate the standard of living in historically underserved urban communities. Founded in 1910 and headquartered in New York City, the National Urban League spearheads the efforts of its local affiliates through the development of programs, public policy research and advocacy. Today, the National Urban League has 95 affiliates serving 300 communities, in 35 states and the District of Columbia, providing direct services that impact and improve the lives of more than 2 million people nationwide.

The National Urban League operates several housing programs at 39 of our affiliates, including our Comprehensive Housing Counseling program, Restore Our Homes program and Foreclosure Mitigation Counseling. We are the boots on the ground when it comes to the housing needs for communities of color. Our 2025 Housing Empowerment goal is to ensure that every American lives in clean, decent, safe affordable and energy efficient housing on fair terms. We write to today with this in mind.

Introduction

Ensuring that all Americans have access to fair and sustainable credit opportunities is crucial to our economic recovery. Communities of color have long been underserved by the housing market, targeted by predatory lenders, and denied opportunities to build housing wealth. The current policy debate surrounding the structure of our housing system, specifically the Qualified Residential Mortgage Rule (QRM), provides a unique opportunity to address these problems and make much-needed improvements.

To this end, the National Urban League strongly supports the second-notice of proposed rulemaking for the Qualified Residential Mortgage (QRM) rule promulgated by the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), Federal Housing Finance Agency (FHFA), Department of Housing and Urban Development (HUD), Office of the Comptroller of the Currency (OCC), and the Securities and Exchange Commission (SEC), which parallels the Consumer Financial Protection Bureau's (CFPB) Qualified Mortgage (QM) rule. By applying the same definition QRM and QM loans, regulators will effectively guarantee access to affordable low-risk mortgages for creditworthy borrowers, and ensure risk-retention for higher-risk loans that caused the housing crisis, the main objectives of the rule.

While we support the alignment of QRM with QM standards, the National Urban League takes exception to the so-called QM-Plus rule, which would require a 30 percent down payment for borrowers to obtain a QRM loan. This unrealistic approach to housing finance policy would restrict access to the market for a number of Americans, especially communities of color. We strongly urge the regulators to not finalize these standards, which would effectively usurp the housing finance industry and redefine the American Dream as we know it.

QRM must affirmatively establish pathways to homeownership for qualified borrowers and safe and affordable rental homes for all families. The federal government has a critical role to play in ensuring that the secondary market serves all borrowers in a fair and equitable manner. We need a financial system in which all parties share accountability to protect consumers and the integrity of the system.

FORECLOSURE CRISIS

Since September 2008, approximately 4.5 million foreclosures have taken place and shaken the very foundation of country's housing finance system. Over 2 million more borrowers are seriously delinquent on their mortgage payments, currently. Foreclosures undercut the security and economic progress of American families nationwide. Loan products such hybrid adjustable rate mortgages (ARMs,) unrealistic prepayment penalties, "no-doc" or "low-doc" loans, upside-down yield-spread premiums and not requiring escrow for taxes and insurance, helped caused the greatest recession the country has suffered since the Great Depression. The subprime lending and foreclosure crisis was a demonstration of unequal access to banking and financial services, in addition to abusive, predatory and fraudulent acts, acted out by lenders and borrowers.

Not surprisingly, African Americans and communities of color were disproportionately impacted by the crisis. African Americans were 3 times more likely to be steered into subprime loan products than Whites, even though they qualified for more traditional loans. According to *Wall Street Journal*, 61 percent of the subprime loans originated in 2006 that were packaged into securities and sold to investors "went to people with credit scores high enough to often qualify for conventional loans with far better terms." Consequently, according to the National Association of Real Estate Brokers (NAREB,) while African Americans made up 7.8 percent of all home originations between 2007 and 2009, they made up 11.6 percent of all foreclosures during the same time period. Although blame for the crisis was misplaced on low down payment requirements, it is clear that unaffordable and abusive loans fueled the crisis.

HISTORY OF QRM

In 2010, Congress passed the Dodd-Frank Wall Street Reform and Consumer Protection Act to address the housing bubble and the foreclosure crisis that ensued. The mortgage protections of this landmark piece of legislation were designed to improve the quality of mortgage lending and restore private capital to the housing market. To better protect investors and discourage rampant risk-taking, Congress required securitizers to retain five percent of the credit risk on loans, packaged and sold as mortgage securities. QRM was drafted as an exemption to this five percent risk provision to ensure that qualified borrowers have continued access to the housing market, without unnecessary restrictions preventing them from attaining the American Dream. The rule represents the last stage in finalizing the mortgage protections in Dodd-Frank.

According to the bill, QRM was to be defined in a manner “no broader” than QM. Additionally, the legislation required regulators to take into consideration “underwriting and product features that historical loan performance data indicate result in a lower risk of default”. Down payment requirements were explicitly left out of the equation. During Congressional debate on the bill, a proposed amendment to require a down payment of five percent was roundly rejected because it “would have serious consequences... for first-time home buyers, minority home buyers, and others seeking to attain the American Dream of home ownership.

The original QRM rule, proposed in 2011, mandated a 20 percent down payment requirement and burdensome credit standards. As a result, it was roundly rejected by housing organizations, community based organizations, civil rights organizations and industry stakeholders, alike.

QRM/ QM

As a result of QM, loans must meet specific product features and underwriting standards to ensure borrowers have the “ability to repay” their mortgages. Borrowers must prove their income and provide relevant documents to qualify for a loan. Moreover, borrowers are forbade from having debt-to-income ratios above 43 percent, unless loans meets Fannie Mac, Freddie Mac, or Federal Housing Administration (FHIA) underwriting criteria for seven years or until reform efforts are passed. Further, loans with risky product features most closely associated with the housing crisis such as negative amortization, interest-only payment features, or loans with amortizations longer than 30 years were excluded from the rule.

QM addressed the core causes of the subprime lending crisis, which was fueled by mortgages with risky product features and by lenders that failed to assess a borrower’s ability to repay a mortgage, not low down payment requirements. By aligning QRM with QM, the second-notice of proposed rulemaking helps guarantee safe and prudent mortgage financing, while ensuring creditworthy homebuyers have access to safe mortgage financing with lower risk of default. Additionally, consistency between both standards reduces regulatory burden and gives mortgage professionals consistency and clarity and consistency in the application of the important mortgage standards.

Down Payments

Decades of experience in the pre-purchase housing counseling sector affords us the understanding that saving the necessary down payment has always been the principal obstacle to buyers seeking to purchase their first home. We believe that communities of color and residents in low- and moderate-income neighborhoods in

America's urban core will feel the disproportionate impact of mandated down payment requirements, ill-designed to mitigate credit risk for the country's mortgage lenders.

Wealth is a crucial determinant of whether a family will be able to afford a down payment for a home, or not. Sadly, this fact has a disproportionate effect on African Americans and communities of color. According to Dr. Thomas Shapiro of Brandeis University, in 2009, the median wealth of white families was \$113,149 compared with \$6,325 for Latino families and \$5,677 for black families. This makes clear the difficulty many minority families face to save high down payments for the purchase of a home, despite the fact that many are qualified, creditworthy, and able to make the requisite monthly mortgage payments. As a result, less than half of all of African Americans own a home, compared to two-thirds of Whites. QRM-Plus would deny access to even more African Americans trying to live the American Dream, if finalized.

According to the Center for Responsible Lending (CRL), it would take 22 years for the typical family to save a 10 percent down payment and 14 years to save for a 5 percent down payment. Arbitrary down payment requirements would impact African-American and Latino families even more. It would take African Americans families an average of 34 years, and Latinos families an average 28 years, to save enough for a 10 percent down payment, plus closing costs. Moreover, it would take African Americans families an average of 21 years, and Latinos families an average of 17 years, to save enough for a 5 percent down payment, plus closing costs.

It would take the average family 56 years to save for a 30 percent down payment; and 85 years and 72 years, respectively, for the average African-American and Latino family. QRM was designed to ensure borrowers have the ability to repay their loans, and protect lenders from default, not bar significant numbers of Americans, especially those from communities of color, from the housing market. Mandated down payment requirements, especially QRM-Plus would have this affect.

According to *Balancing Risk and Access*, a report completed by the Center for Community Capital at the University of North Carolina at Chapel Hill and CRL, if a 10 percent down payment requirement had been in place in 2011, it would have excluded 60 percent of African-American borrowers and 50 percent of Latino borrowers who were current on their mortgages. A five percent down payment requirement would have locked out 33 percent of successful African-American and 22 percent of successful Latino borrowers at that time. A 30 percent down payment requirement would have excluded 94 percent of African-American and 91 percent of Latino borrowers who were successfully paying their mortgages. This would be unacceptable.

Households of color are estimated to account for seven out of ten net new households between 2010 and 2020. Arbitrary down payment requirements, including QRM-Plus could exclude a large portion of the market from accessing affordable mortgages. This may have the effect of depressing home prices, leading to the loss of equity and property values of homes in neighborhoods across the nation and act as a drag on the economy.

As a leading advocate for homeownership, NUI has long supported a reasonable and affordable “skin in the game” requirement coupled with quality credit standards, strong documentation and sound underwriting. In our view, an unnecessarily high down payment requirement, will increase the cost and reduce the availability of mortgage credit, significantly delaying a housing recovery. Indeed, there is a wealth of empirical evidence that shows that responsible lending standards and ensuring a borrower’s ability to repay a mortgage loan has the greatest impact on reducing lender risk. Adding high minimum down payment requirements will only exclude hundreds of thousands of consumers – including a myriad of minority renters – from homeownership, despite their creditworthiness and proven ability to afford the monthly payment.

In our judgment any proposals requiring high down payments will only drive more borrowers to FHA, increase costs for borrowers by raising interest rates and fees, and effectively price many eligible borrowers out of the housing market altogether. Several proposals for modifying the housing finance system have suggested that borrowers who fall outside of the definition of QRM may be best served by FHA mortgage insurance. We strongly caution against this flawed framework. Leaving an entire borrower segment and whole neighborhoods reliant on a single source of mortgage credit is not good policy.

FHA works best in a competitive market where it is one of many options available to a wide range of borrower segments. In the absence of competition for their business on safe and sustainable terms, our communities face two troubling scenarios: being overrun with FHA loans and denied access to conventional credit, or being cut off from credit entirely if lenders decline to offer the FHA product. Both scenarios leave certain borrowers and neighborhoods vulnerable to a resurgence of predatory or substandard credit and enable a two-tiered financing system, especially given FHA’s recent fiscal problems and draw of \$1.7 billion from the U.S. Treasury.

Conclusion

Down payment requirements are not a determinant of a borrower’s ability to repay their mortgage. Moreover, the legislative history of Congress makes clear that down payment requirements were not intended to be

included in the definition of QRM. We strongly urge the regulators to not include down payment requirements in the final rule.

Sincerely,

A handwritten signature in cursive script, appearing to read "marc morial".

Marc H. Morial
President and CEO