NATIONAL
HOUSING
CONFERENCE

October 30, 2013

Department of the Treasury
Office of the Comptroller of the Currency
Legislative and Regulatory Activities Division
400 7th Street, SW., suite 3E-218, Mail Stop 9W-11
Washington, DC 20219
Docket No. OCC-2013-0010, RIN 1557-AD40

Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090
Attn.: Elizabeth M. Murphy, Secretary
File Number S7-14-11

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, RIN 7100-AD-70

Federal Housing Finance Agency
Fourth Floor
1700 G Street, NW
Washington, DC 20552
Attn.: Alfred M. Pollard, General Counsel
RIN 2590-AA43

Federal Deposit Insurance Corporation
550 17th Street, NW
Washington, DC 20429
Attn.: Robert E. Feldman, Executive Secretary
RIN 3064-AD74

Department of Housing and Urban Development
Regulations Division
Office of General Counsel
451 7th Street, SW, Room 10276
Washington, DC 20410-0500
RIN 2501-AD53

Re: Qualified residential mortgage rule

To the Regulating Agencies:

The National Housing Conference welcomes this opportunity to comment on the proposed risk retention rule for qualified residential mortgages (QRM). We appreciate the hard work all six agencies have put into analyzing the complex issues involved, and thank you for your attention to an issue that is so critical to the availability and affordability of housing. With mortgage lending already so tight, it is essential that the QRM standard allow broad availability of mortgage credit to all qualified borrowers, including those of lower wealth and income, while encouraging investors to supply capital. We believe **the preferred alternative aligning QRM with the qualified mortgage rule (QM) strikes the right balance** between credit availability and investor protection. We urge you to finalize the rule aligning QRM and QM. Below, we offer further detail in support of our recommendation and in opposition to the 30% downpayment alternative.

I. About the National Housing Conference

The National Housing Conference (NHC) represents a diverse membership of housing stakeholders including tenant advocates, mortgage bankers, non-profit and for-profit home builders, property managers, policy practitioners, realtors, equity investors, and more, all of whom share a commitment to safe, decent and affordable housing for all in America. We are the nation's oldest housing advocacy organization, dedicated to the affordable housing mission since our founding in 1931. As a nonpartisan, 501(c)3 nonprofit, we are an evidenced-based research and education resource working to advance housing policy at all levels of government in order to improve housing outcomes for all in this country.

II. Aligning QRM with QM combines safe lending with investor protection

The preferred alternative in the proposed QRM rule would align with the existing restrictions in the QM rule. NHC endorses this approach as one that allows safe and sustainable low-downpayment lending for affordable housing, protects investors, creates clarity for lenders, and fulfills Congress' intent.

A. Low-downpayment lending can be safe and sustainable

Downpayment has an intuitive appeal from a regulatory standard, since it is a simple, bright line with a correlation to default rate. However, it is only one factor among many in a full underwriting analysis, and on its own is neither a necessary nor sufficient condition for a good loan. Using downpayment as a minimum threshold, moreover, powerfully disadvantages responsible low- and moderate-income homebuyers.

A **high downpayment threshold creates a powerful barrier to homeownership** for low-wealth families, one that is uniquely difficult to overcome. A family can improve its credit performance over time or pay down non-mortgage debt, but saving up $20,000 or $40,000 (even more in high-cost markets) for a downpayment can take decades. Making the accumulation of wealth a requirement for access to affordable mortgage finance in effect excludes Americans who do not already have individual or family wealth. Not only is that fundamentally unfair, but it also **skews disproportionately against communities of color**.[1]

We know that **well-structured, low-downpayment loans to responsible borrowers perform well**. The best data on this come from the Center on Community Capital, which found that properly structured, low downpayment loans performed 3.5 to 3.99 times better than subprime loans to comparable borrowers, even during the height of the foreclosure crisis.[2] The well-structured low-downpayment loans perform with comparable stability to prime loans. Data illustrate the converse, too: in the fourth quarter of 2010, the percent of prime fixed rate loans in foreclosure was 2.67%, the highest level in the history of the Mortgage Bankers Association National Delinquency Survey. The rate for prime adjustable rate loans was a whopping 10.22%.[3] These data underscore that the housing crisis resulted from

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[1] Plan B, A Comprehensive Approach to Moving Housing, Households and the Economy Forward; April 4, 2011, by Lewis Ranieri, Ken Rosen, Andrea Lepcio and Buck Collins. Figures 14 shows that minority households in 2007 had median before tax family income of about $37,000, compared to about $52,000 for white families. Similarly, Figure 15 shows minority family net worth in 2007 of almost $30,000, compared to more than $170,000 for white families.

[2] Lei Ding, Roberto G. Quercia, Wei Li, Janneke Ratcliffe, "Risky Borrowers or Risky Mortgages: Disaggregating Effects Using Property Score Models" Center for Community Capital Working Paper, May 17, 2010. Available at http://www.ccc.unc.edu/documents/Risky.Disaggreg.5.17.10.pdf.

[3] The survey is available at http://www.mortgagebankers.org/NewsandMedia/PressCenter/75706.htm.

inherently risky mortgage features —exploding ARMs, no-doc loans, negative amortization—rather than loans with low downpayments.

We further know that **downpayment assistance programs provided by localities and approved nonprofits generate low-risk loans**. Indeed, buyers with assistance from affordable homeownership programs have default rates well below local market averages, even with very low or no dowpayment from the buyer's own funds.[4] Homeownership assistance programs use public resources efficiently to create long-term affordable housing, often making the loans safer than some unassisted transactions.

B. QM product restrictions reduce defaults significantly

In a rough and inexact way, there is a tradeoff between restricting access to credit and reducing default. Not all restrictions necessarily improve default rates, however, nor does a marginal gain in loan portfolio performance justify exclusion of many potential borrowers. Setting an extremely tight standard for QRM would make default rates low, but it would also exclude many responsible borrowers from the most efficient form of financing. The rule must therefore strike a balance by setting a standard that includes as many responsible borrowers as possible while reducing default rates to a low and predictable level. The preferred alternative in the reproposed rule correctly avoids using downpayment and instead relies on product restrictions to strike that balance.

By aligning QRM with the QM standard, the proposed rule would eliminate risky loan products and greatly reduce the likelihood of default. A recent study by the University of North Carolina Center for Community Capital found that the QM standard would have reduced default rate by almost one half, based on a data set of 19.5 million loans originated from 2000 to 2008, including both prime and subprime loans.[5] In addition, analysis by Laurie Goodman, Ellen Seidman and Jun Zhu of the Urban Institute found that "default rates of QRM=QM loans are significantly lower than on their non-QM counterparts" and furthermore that a more common definition of default shows even lower default rates for QRM=QM loans.[6] The rule has found the right balance point.

C. Congress rejected downpayment as a QRM feature

Congress specifically rejected including downpayment as one of the factors in the statute.[7] Not only should that resolve any lingering concerns regulating agencies have about making value judgments that

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[4] Urban Institute. *Balancing Affordability and Opportunity: An Evaluation of Affordable Homeownership Programs with Long-term Affordability Controls*, October 26 2010.

[5] Carolina Reid and Roberto Quercia, University of North Carolina Center for Community Capital, "Risk, Access, and the QRM Reproposal," September 2013, http://ccc.unc.edu/contentitems/risk-access-and-the-qrm-reproposal/.

[6] Laurie Goodman, Ellen Seidman and Jun Zhu, Urban Institute, Metrotrends blog post, "QRM, Alternative QRM: Loan default rates" posted October 17, 2013, http://blog.metrotrends.org/2013/10/qrm-alternative-qrm-loan-default-rates/.

[7] The evidence here is quite strong, as confirmed by the February 16, 2011 letter from Senators Landrieu, Hagan and Isakson to the QRM regulators stating their explicit rejection of minimum downpayment in the statute, as detailed in the Coalition for Sensible Housing Policy white paper, "Updated QRM Proposal Strikes Right Balance: Preserves Access While Safeguarding Consumers and Market," http://www.sensiblehousingpolicy.org/White_Paper.html. And after the first QRM proposed rule, over 340

are preferably the domain of legislators, it should also provide guidance in weighing the social harm of excluding low-wealth borrowers against the value of tightening the QRM standard. Congress has weighed the two and come down against using a downpayment requirement.

D. Aligning standards creates clarity for lenders

The new QM and QRM lending standards established by the Dodd-Frank law require lenders to modify their loan programs and systems at a level of change that creates significant cost and uncertainty. By aligning the QM and QRM standards, the preferred alternative would avoid having two separate lending standards with different sets of requirements. The resulting **certainty and clarity will help lenders understand the risks they must manage, implement new systems, and reach more borrowers**. Alignment will help make mortgage credit more available, particularly to the low- and moderate-income borrowers often excluded in an excess of caution by lenders facing regulatory uncertainty.

E. The 30% downpayment is risky at the expense of housing affordability

The proposed QRM rule offers an alternative proposal that would set a 30% downpayment standard to restrict QRM to a narrow band of the mortgage market. **This 30% downpayment alternative would unnecessarily slice the secondary market in two in ways that will likely exclude low- and moderate-income borrowers** from the most efficient form of financing while disproportionately burdening communities that have historically not been well-served by capital markets.

There are few data available on what effect a 30% downpayment split would mean for mortgage lending. Recent analysis by the Urban Institute concludes that **the 30% downpayment alternative would cause "the vast majority of loans [to] require risk retention**."[8] The proposed rule estimates the additional cost of risk retention at between zero and 30 basis points—a nontrivial range that would require significant additional study to verify and refine.[9] Projections of future market effect based on past loan data are particularly complicated by the past GSE and private mortgage insurance standard of a 20% downpayment; many borrowers aimed for 20%, and we cannot observe what they would have done were a different standard in place.

The uncertainty around the actual effects of the 30% alternative is great, but the direction of those effects is clear. **The people most affected by the 30% downpayment alternative would be those of low and moderate income who would be responsible borrowers but without the accumulated wealth for a large downpayment**—those who cannot easily meet the new standard even if motivated by lower-cost financing. They would be disproportionately from communities of color and in parts of the country where credit has been historically more difficult to obtain.[10] We ask you not to choose an untested option that puts at risk the affordability of housing for low- and moderate-income Americans.

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members of Congress have joined with the National Association of Realtors to urge regulators to eliminate the 20% downpayment requirement (see http://www.realtor.org/topics/qrm/thankyou_congress_ad).

[8] Laurie Goodman and Ellen Seidman and Jun Zhu, Urban Institute, Metrotrends blog, "QRM vs. Alternative QRM: Quantifying the Comparison," October 7, 2013, http://blog.metrotrends.org/2013/10/qrm-vs-alternative-qrm-quantifying-comparison/.

[9] See 78 Fed. Reg. 183, 58013 (September 20, 2013).

[10] Coalition for Sensible Housing Policy white paper, p. 10.

III. Conclusion: Align QRM with QM

The National Housing Conference urges you to complete the work on the QRM rule by finalizing the preferred alternative to align the QRM standard with the QM standard. Doing so will help low- and moderate-income families obtain affordable mortgages, protect investors by reducing defaults, and bring clarity to lending in ways that make mortgage credit more available. We hope you will keep the housing needs of all in America in the forefront of your thinking, so that the decisions on the QRM rule will help make safe, decent, and affordable housing more available to all in America.

Sincerely,

Chris Estes

Chris Estes
President and CEO