

April 12, 2012

The Honorable Richard Cordray
Director
Bureau of Consumer Financial Protection
1700 G St. NW
Washington, DC 20552

Dear Director Cordray:

The undersigned organizations representing a very broad spectrum of lenders, investors, housing professionals, consumer advocates and civil rights groups write to you today to strongly urge that a broadly-defined Qualified Mortgage (QM) be central to the forthcoming Ability to Repay regulation.

Most economists and housing market analysts in government and in the private sector agree that today's underwriting standards are tight and are contributing to a slow housing recovery. Our organizations believe that an unnecessarily narrow definition of QM that covers only a modest proportion of loan products and underwriting standards and serves only a small proportion of borrowers would undermine prospects for a housing recovery and threaten the redevelopment of a sound mortgage market.

Admittedly, the undersigned hold different views about whether the QM should be designed as a safe harbor or a rebuttable presumption (both options were included in the proposed rule). Nevertheless, we stand united in urging the Bureau of Consumer Financial Protection (CFPB) to construct a broadly-defined QM using clear standards. We believe that is the only way to help the economy and at the same time ensure that the largest number of credit worthy borrowers are able to access safe, quality loan products for all housing types, as Congress intended in enacting the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).

Congressional Intent Calls for Broadly Defined QM

Every version of the Ability to Repay provisions introduced in Congress, including the final version of Dodd-Frank that became law, paired the Ability to Repay Requirement with the QM. The reasoning was that pairing the prospect of liability with an exception for well underwritten, safer, more sustainable loans was the best means of ensuring sound lending for borrowers.

To add incentives for QM lending, the law also added liability for steering consumers from QM to non-QM loans. Further, the Bureau was given broad flexibility to define the QM in a manner that will "ensure that responsible, affordable mortgage credit remains available to consumers." All of these provisions demonstrate Congress's intent that all creditworthy borrowers – especially low- and moderate-income borrowers and families of color – should be extended the important protections of a QM.

Non-QMs Will Be Less Protective, Less Available and More Expensive

A narrowly defined QM would put many of today's loans and borrowers into the *non*-QM market, which means that lenders and investors will face a high risk of an ability to pay violation and even a steering violation. As a result of these increased risks, these loans are unlikely to be made. In the unlikely event they are made, they will be far costlier, burdening families least able to bear the expense. Beyond that, these higher-priced loans would not be required to include important protections against certain practices and loan features that drove the highest failures in the mortgage boom that are embedded in QM.

There is no question that some residential mortgage underwriting standards were too lax during the housing boom, and that strong regulatory standards are needed to make sure that those mistakes are not repeated. We support the establishment of such standards and we believe the establishment of the QM is central to that effort. Rather than narrowing the QM market, we believe the CFPB should work to ensure that the QM market becomes the market. Creating a broad QM, which includes sound underwriting requirements, excludes risky loan features, and gives lenders and investors reasonable protection against undue litigation risk, will help ensure revival of the home lending market.

Clear Standards are Critical to Any QM Definition

Vague parameters for the QM also will add legal uncertainty, increase costs and limit access to credit. If the parameters of the QM are not clear, risks become unpredictable, forcing lenders to decrease their risk tolerance and operate well within the standards. Such an outcome will lessen both the availability and affordability of credit for far too many borrowers. For these reasons, the CFPB should establish clearly defined standards in the QM definition that are objectively determinable at origination.

All of us would appreciate the opportunity to meet with Bureau staff at your earliest convenience to discuss all of these concerns and to share our data. We are convinced that the choices around this important rule, including in large measure the breadth of the QM standard, will affect sustainable homeownership for generations to come.

Sincerely,

American Bankers Association
American Escrow Association
American Financial Services Association
American Land Title Association
American Securitization Forum
Asian Real Estate Association of America
Center for NYC Neighborhoods
Columbus Housing Partnership
Community Associations Institute
Community Mortgage Banking Project

(list continued)

Community Mortgage Lenders of America
Consumer Bankers Association
Consumer Mortgage Coalition
Financial Services Roundtable
Habitat for Humanity International
Housing Policy Council
Independent Community Bankers of America
Leading Builders of America
Mortgage Bankers Association
Mortgage Insurance Companies of America
National Association of Hispanic Real Estate Professionals
National Association of Home Builders
National Association of Mortgage Brokers
National Association of Neighborhoods
National Association of Real Estate Brokers
National Association of Realtors®
National Community Reinvestment Coalition
National Council of State Housing Agencies
National Housing Conference
Real Estate Services Providers Council, Inc. (RESPRO®)
Real Estate Valuation Advocacy Association
The Appraisal Institute
The Realty Alliance