January 11, 2011

Honorable Timothy F. Geithner
Secretary
United States Department of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Mr. John E. Bowman
Acting Director
Office of Thrift Supervision
1700 G Street, NW
Washington, DC 20552

Honorable Shaun L. S. Donovan
Secretary
United States Department of
Housing & Urban Development
451 7th Street, SW
Washington, DC 20410

Honorable Mary L. Schapiro
Chairman
Securities and Exchange
Commission
100 F Street, NE
Washington, DC 20549

Honorable Ben S. Bernanke
Chairman
Board of Governors of
the Federal Reserve System
20th & Constitution Ave., NW
Washington, DC 20551

Mr. John G. Walsh
Acting Comptroller
Office of the Comptroller
of the Currency
250 E Street, SW
Washington, DC 20219

Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corp.
550 17th Street, NW
Washington, DC 20429

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

Ladies and Gentlemen:

The undersigned represent key organizations representing consumers as well as the housing and mortgage finance industries. The housing market is still weak, with a significant overhang of unsold homes, and an equally large shadow inventory of distressed loans. At the same time, many borrowers seek or are on the threshold of seeking affordable, sustainable homeownership.

In this context, we are concerned that the forthcoming credit risk retention rules required by Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010[1] (Dodd-Frank Act) may result in an unduly narrow definition of the important term "Qualified Residential Mortgage" (QRM) that could forestall the recovery of the housing market by making mortgages unavailable or unnecessarily expensive for many creditworthy borrowers. This could occur, for example, if the rules required homebuyers to make large down payments.

We believe careful calibration of the QRM exemption is imperative in light of the enormous potential impact it would have on the cost and availability of mortgage credit at this precarious point in the housing cycle.

[1] Pub. L. 111-203, July 21, 2010.

Risk retention is intended to align the interests of borrowers, lenders and investors in the long-term performance of loans. This "skin in the game" requirement, however, is not a cost-free policy option. One analyst report[2] suggests that risk retention, when combined with other contemporary accounting and capital changes already in the works, could increase the cost of mortgages funded through securitization by as much as three percentage points. Obviously, an increase in mortgage rates by even a fraction of that amount would price many eligible borrowers out of the housing market.

To address this problem, the Dodd-Frank Act was amended to include an exemption from the risk retention requirements for certain high-quality, lower-risk mortgages. The statute requires the QRM definition to be based on "underwriting and product features that historical loan performance data indicate result in a lower risk of default," and provides guidance on the types of factors to be considered:

- Documentation of income and assets;
- Debt-to-income ratios and residual income standards;
- Product features that mitigate payment shock;
- Restrictions or prohibitions on non-traditional features like negative amortization, balloon payments, and prepayment penalties; and
- Mortgage insurance or other types of credit enhancement obtained at the time of origination on low down payment loans, to the extent they reduce the risk of default.

This statutory framework is important for two reasons. First, it ensures that the definition is based on objective, empirical data rather than subjective presumptions. Second, it requires a multifactor approach to establishing the parameters of the QRM in order to promote sound underwriting practices without arbitrarily restricting the availability of credit.

As indicated, we are concerned that your agencies may be considering a very narrowly defined QRM standard. For example, it has been suggested that the QRM standard include a very high down payment requirement in order to limit QRM eligibility to some arbitrarily small percentage of the market.

Creating an inordinately narrow QRM exemption could cause significant disturbances in the fragile housing market. As each of you have noted in public statements or supervisory guidance, today's credit standards are tougher than they have been in decades. As a result, credit availability is extremely tight even for very well qualified borrowers. We strongly urge you to consider the negative ramifications of setting further limits on the availability of credit through a comparatively narrower QRM exemption. If the agencies establish a QRM that is significantly tighter than current credit standards, it would mean that millions of creditworthy borrowers would be deemed, <u>by regulatory action</u>, to be higher risk borrowers. As a result, they would be eligible only for mortgages with higher interest rates and fees and without the protections required by the statutory QRM framework that limit risky loan features.

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[2] JP Morgan Securities, Securitization Outlook, December 11, 2009.

A QRM definition that is too narrow would prohibit many potential first-time homebuyers from buying a home especially if the definition includes an excessively high minimum down payment requirement. Repeat buyers and refinancers also would be adversely impacted if the QRM includes exceedingly high equity requirements. In other words, the important goal of clearing historically high foreclosure inventory – a necessary condition for a stabilized housing market – will be undermined. We therefore urge the agencies to define the QRM's parameters in a way that facilitates a housing recovery and ensures access to conventional mortgage credit for all buyers and refinancers, including low- and moderate-income households, minority families, and first-time buyers, while preserving high quality, empirically sound underwriting and product standards.

The purpose of the QRM is to create a robust underwriting framework that provides strong incentives for responsible lending and borrowing. Loans meeting these standards will assure investors that the loans backing the securities meet strong standards proven to reduce default experience. The exemption also will keep rates and fees lower on QRMs, which will provide incentives for borrowers to document their income and choose lower risk products. In turn, the market will evolve to establish the appropriate mixture of QRM to non-QRM borrowing.

We recognize that the Dodd-Frank Act's deadline for implementing the credit risk retention provisions provides a very short time for comprehensive analysis. Therefore, we welcome the opportunity to address any questions or comments you might have in advance of the formal rulemaking. Given the complexity of the issue and the importance of getting the right balance, we believe it is crucial that the rulemaking proceed through the full notice and comment process to ensure a thorough review and analysis of the supporting loan performance data and the potential impact on the housing market. The work you are undertaking is of the utmost importance to restoring a strong and stable housing market, and we would be pleased to contribute our experience and insights throughout the process.

American Land Title Association
Asian Real Estate Association of America
Center for Responsible Lending
Community Associations Institute
Community Mortgage Banking Project
Community Mortgage Lenders of America
Consumer Federation of America
Mortgage Bankers Association
Mortgage Insurance Companies of America
National Association of Home Builders
National Association of Real Estate Brokers
National Association of Realtors

About the Signatories

The American Land Title Association®, founded in 1907, is the national trade association and voice of the abstract and title insurance industry. ALTA® members search, review and insure land titles to protect homebuyers and mortgage lenders who invest in real estate. ALTA® is headquartered in Washington, DC.

Founded in 2003, the **Asian Real Estate Association of America (AREAA)** is a nonprofit professional trade organization dedicated to promoting sustainable homeownership opportunities in Asian American communities by creating a powerful national voice for housing and real estate professionals that serve this dynamic market.

Since 2002, the **Center for Responsible Lending (CRL)** has protected homeownership and family wealth by working to eliminate abusive financial practices. Our mission grows directly from our affiliation with Self-Help, our founder and one of the nation's largest non-profit community development lenders.

The **Community Associations Institute (CAI)** is a national organization dedicated to fostering vibrant, competent, harmonious community associations. Our members include community association volunteer leaders, professional managers, community management firms and other professionals and companies that provide products and services to associations.

The **Community Mortgage Banking Project (CMBP)** is a public policy organization representing the interests of independent mortgage bankers. For decades, the community-based mortgage banker has delivered value and choice to consumers by leveraging local market expertise, quality service, and lower costs for borrowers. The CMBP supports financial market reforms that promote consumer access, borrower and investor transparency, and local competition and choice.

The **Community Mortgage Lenders of America** represents the nation's Main Street mortgage lenders. CML America is founded on the principle that a thriving independent mortgage banking sector increases competition in the industry and provides borrowers with more choice, lower costs, and innovative products.

The **Consumer Federation of America (CFA)** is an association of non-profit consumer organizations that was established in 1968 to advance the consumer interest through research, advocacy, and education. Today, nearly 300 of these groups participate in the federation and govern it through their representatives on the organization's Board of Directors.

The **Mortgage Bankers Association (MBA)** is the national association representing the real estate finance industry, an industry that employs more than 280,000 people in virtually every community in the country. Headquartered in Washington, D.C., MBA invests in communities across the nation by ensuring the continued strength of the nation's residential and commercial real estate markets; expanding homeownership and extending access to affordable housing to all Americans and supporting financial literacy efforts.

The **Mortgage Insurance Companies of America (MICA)** is the trade association representing the private mortgage insurance industry. Its members help loan originators and investors make funds available to homebuyers for low down payment mortgages by protecting these institutions from a major portion of the financial risk of default.

The **National Association of Home Builders (NAHB)** is a trade association that helps promote the policies that make housing a national priority. Since 1942, NAHB has been serving its members, the housing industry, and the public at large.

The **National Association of Real Estate Brokers (NAREB)** was formed in 1947 out of a need to secure the right to equal housing opportunities regardless of race, creed, or color. Since its inception, NAREB has actively supported legislative and regulatory initiatives to ensure fair housing for all Americans and access to business opportunity for minority real estate professionals. Today, NAREB has 88 chapters located nationwide.

The **National Association of REALTORS®,** "The Voice for Real Estate," is America's largest trade association representing 1.1 million members involved in all aspects of the residential and commercial real estate industries. REALTORS® belong to one or more of some 1,400 local associations or boards, and 54 state and territory associations of REALTORS®.