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June 1, 2011

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United States Department of
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451 7th Street, SW
Washington DC 20410

The Honorable Ben S. Bernanke
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The Honorable Mary L. Schapiro
Chairman
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The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corp.
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Mr. Edward J. Demarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW
Washington, DC 20552

Dear Leaders:

I am writing today because I am concerned about the joint proposed rule to implement the credit risk-retention requirements included in Section 941 of the Dodd-Frank Act. I am worried specifically about the proposed Qualified Residential Mortgage (QRM) rule and the unintended consequences that the twenty percent down-payment standard in this rule could have on responsible, creditworthy homebuyers in Massachusetts.

As you know, Congress passed as part of its historic financial-reform efforts a series of laws designed to improve the quality of mortgage lending across the country. To curtail excessive risk-taking in the mortgage industry, one such law required mortgage securitizers to put some of their own "skin in the game" by retaining five percent of the "credit risk of any asset" that is packaged and sold as a mortgage security. But because an across-the-board risk-retention requirement would impose significant costs on creditworthy borrowers, Congress also created an exemption for securities that were backed exclusively by Qualified Residential Mortgages—those mortgages with sound "underwriting and product features that ... result in a lower risk of default." Such an exemption reduces the cost of securitization for responsible loans and therefore provides a powerful market incentive for widespread responsible lending. It is, then, critically important.

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Given clear Congressional intent to exempt lower-risk mortgages from the retention requirement and the positive market incentive that this exemption creates, I was surprised to learn about the proposed twenty-percent down-payment prerequisite for the QRM exemption. This bright-line, across-the-board requirement for the QRM exemption seems at once too broad and too narrow—and certainly too restrictive—especially since it applies even to creditworthy homebuyers, even in instances where these homebuyers obtain mortgage insurance, and even though studies have shown that the size of a down payment does not necessarily correlate with the risk of default.

I understand that the QRM rules are multi-faceted, and I know that your work is not easy. Avoiding another costly mortgage melt-down does require reform of the process, but none of us—and none of you—want to see reform create an onerous unintended consequence: keeping middle class families trapped in a cycle of paying rent when in fact they could well be paying mortgages, achieving the American dream of homeownership, and being able to save for college expenses for their children or the costs of caring for aging parents. I know that the majority of creditworthy homebuyers—especially first-time and minority creditworthy homebuyers—cannot afford to pay the twenty percent down that would be required under the proposed rule for the lower-interest-rate mortgages that qualify for the QRM exemption.

In my home state of Massachusetts, for example, the median family income (including both renters and homeowners) is less than \$85,000—and the median family income for renters is \$45,000. Comparatively, the median sale price for a home in Massachusetts is \$274,000, some twenty-five percent more than the \$217,900 median sale price nationally. These figures demonstrate why, on average, even creditworthy Massachusetts homebuyers with steady, reliable incomes cannot begin to afford a twenty percent down-payment. Indeed, based on these statistics, a requirement that creditworthy buyers pay almost \$55,000 down exceeds outright the *yearly* median income for renting families in Massachusetts. Such an onerous burden would be on its face destructive to an already-fragile market.

Further, too many potential homebuyers in Massachusetts—especially first-time potential homebuyers—are already having difficulty obtaining financing to purchase a home. According to the Warren Group, single-family home sales in Massachusetts dropped twenty-eight percent in April 2011 as compared to the same month a year ago. And year-to-date home sales are down almost fifteen percent. This decrease in homebuyers has, in turn, led to a four-percent drop in median home pricing. The standard included in this rule could make these trends even worse and could negatively impact the economic recovery in Massachusetts and elsewhere.

A responsible potential homebuyer simply should not have to choose between a more expensive mortgage today, on the one hand, or a 10-year delay while they save up for a down payment on the other. Yet this proposed rule would seemingly leave no options beyond that painful choice

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for many creditworthy citizens in Massachusetts. And that would be dangerous, on multiple levels.

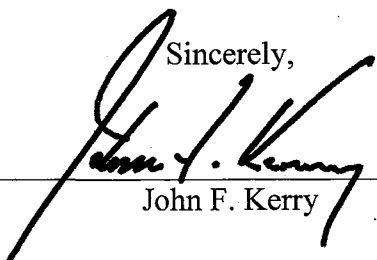
I fully appreciate that there are competing interests and values on each side of this equation, but I am not convinced that a threshold down-payment requirement is the best way to effectuate Congressional intent with respect to the QRM exemption. In any event, twenty percent seems to me too high. Particularly in a state like Massachusetts—where home prices remain well above the national average—the notion of a police officer or teacher or firefighter being forced to spend years trying to save the up-front money required for a twenty percent down-payment is a daunting prospect. Well-underwritten, low down-payment mortgages containing default-reducing product features should not be excluded across the board from this exemption.

Massachusetts was hit hard by the crash of the housing market, and nobody—anywhere—wants to prolong that destruction or revisit it anew. That is why Congress carefully reformed the laws, striking a balance between reform and reality. The proposed implementing regulations will, I fear, almost certainly upset that careful balance and force the housing market into yet another destructive period—this one the result of over-regulation.

And so as you move forward to increase protections for both the taxpayer and the homebuyer, I hope that we can strike a more appropriate balance. We can—and should—encourage sound lending without harming responsible buyers.

I thank you for your leadership on this issue, and I look forward to your response.

Sincerely,



John F. Kerry