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Congress of the United States
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April 15, 2011

The Honorable Ben S. Bernanke
Chairman, Board of Governors
Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551-0001

The Honorable Shaun Donovan
Secretary, U.S. Department of
Housing & Urban Development
451 7th Street, SW
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The Honorable Sheila C. Bair
Chairman
Federal Deposit Insurance Corporation
550 17th Street, NW
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The Honorable Mary L. Shapiro
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Mr. John Walsh
Acting Comptroller of the Currency
Office of the Comptroller of the Currency
250 E Street, NW
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Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, DC 20552

Dear Sir or Madam,

Your work on the recently released Credit Risk Retention interagency rule from Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act is extremely pivotal. While this rule addresses all asset classes, the mortgage asset risk retention and the Qualified Residential Mortgage (or "QRM") exclusion from risk retention, is particularly important for the stability of the United States housing economy.

Our concern is that the rule, as recently released, doesn't follow the clear intent of the Senators who introduced the QRM provision that ultimately was included in the Dodd-Frank legislation.

Because Dodd-Frank exempts government-guaranteed FHA lending from the five percent credit risk retention, it is essential to track the legislative language and include private mortgage insurance for any low-down payment lending as an element within the QRM standard. This provision was included in QRM to ensure that comparable treatment is afforded for prudent QRM loans backed by private mortgage insurance, just as it is for loans insured by FHA.

The FHA is currently the insurer of nearly 30 percent of all mortgage loan originations today – a level that is unacceptable to the American taxpayer, most in the Congress, the Administration, and even the FHA Commissioner (especially when FHA was just three percent of the housing market back in 2007). The current dominant market share is especially disconcerting when one considers that FHA continues to be significantly undercapitalized (well below the required two percent capital ratio). FHA cannot continue to play such a dominant role in the United States housing market – unnecessarily putting the American taxpayer at risk and crowding out private capital.

Additionally, the proposed rule released last week includes a 20 percent down payment plus closing costs requirement to be eligible under the QRM definition. Down payment was not an element of the QRM provision that passed the Congress as part of Dodd-Frank. As correspondence from the original sponsor in the Senate made clear: "We are concerned that efforts to impose a high down payment requirement for any mortgage to meet the QRM exemption standard would be inconsistent with our legislative intent. As the authors of the QRM provision, we can assure you that, although there was discussion about whether the QRM should have a minimum down payment, in negotiations during the drafting of our provision we intentionally omitted such a requirement."

This is particularly concerning because as real estate data indicates, low down payment is a critical element to stabilizing the nation's housing market and can be done without inappropriately expanding risk. According to a new analysis of 33 million home loans originated between 2002 and 2008, boosting down payments in five percent increments has only a negligible impact on default rates. For example, moving from a five to a 10 percent down payment on loans that already meet all of the other QRM standards reduces defaults by an average of only two- or three-tenths of one percent – but eliminates anywhere from seven to 15 percent of borrowers from qualifying for a lower-rate QRM loan. Increasing the minimum down payment to 20 percent would knock 20 to 25 percent of borrowers out of QRM eligibility, with only a small improvement in default performance of about eight-tenths of one percent. According to data from the National Association of Realtors' 2009 Home Buyer and Seller Profile, more than 75 percent of first-time buyers put down less than 20 percent. Only 13 percent made a down payment of 20 percent or more.

This underscores the importance of well-underwritten mortgages and the need for the traditional role of mortgage insurance. Its inclusion in QRM can facilitate responsible low down payment lending, putting private capital in a *first loss position* – before the American taxpayer – and thus it is a critically important element to include in the statutory language of QRM. As the Congress intended, a properly crafted QRM definition provides incentives for the strongest underwriting, discourages bad lending practices, and restores investor confidence by bringing private capital back to the housing finance market.

Protecting the taxpayers is paramount, restoring private capital to the mortgage markets is essential, and stabilizing the housing market is long overdue. It is hard to envision the recovery of the housing market with unnecessarily high down-payment requirements under QRM. Moreover, this was never the intent.

Please feel free to contact me should you have any questions. I look forward to your responsible action consistent with that described above

Yours truly,

Tom Price, M.D.
Member of Congress

cc: The Honorable Timothy F. Geithner
Secretary of the Treasury
U.S. Department of the Treasury
1500 Pennsylvania Avenue, NW
Washington, DC 20220