MortgageAmerica, inc.®

August 1, 2011

Honorable Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
Washington, DC 20551

Honorable Martin J. Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
Washington, DC 20429

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20552

Honorable Mary L. Shapiro
Chairman
Securities and Exchange Commission
Washington, DC 20549

Honorable Shaun Donovan
Secretary
Department of Housing & Urban
Development
Washington, DC 20410

Mr. John G. Walsh
Acting Comptroller
Office of the Comptroller of the Currency
Washington,DC20219

Re: Interagency Proposed Rule on Credit Risk Retention

- OCC: Docket No. OCC-2011-0002 regs.comments@occ.treas.gov
- Federal Reserve: Docket No. R-1411 regs.comments@federalreserve.gov
- FDIC: RIN 3064-AD74 comments@FDIC.gov
- SEC: File Number S7-14-11 Rule-comments@sec.gov
- FHFA: RIN 2590-AA43 RegComments@FHFA.gov
- HUD: FR-5504-P-01 via www.regulations.gov

Ladies and Gentlemen:

Thank you for the opportunity to comment on the proposed risk retention regulations and in particular on the standards for a Qualified Residential Mortgage (QRM). Our comments will be focused exclusively on those provisions in the proposed regulations that affect single-family mortgages, with a significant portion of our comments devoted to the QRM exemption.

Under the risk retention rule, Congress allowed for an exemption to the 5% risk retention requirement for Qualified Residential Mortgages (QRM). In defining the framework for the QRM exemption, Congress spelled out the following principles:

- Help ensure high quality underwriting standards

- Encouragement of appropriate risk management practices
- Improve credit access to consumers on reasonable terms
- Be in the public interest and for investor protection

QRMs were to take into consideration underwriting and product features that historical performance data demonstrate a lower risk of default, such as:

- Documented and verified borrower financial information used for loan qualification
- Borrower residual income
- Housing ratio and total debt-to-income ratio (DTI)
- Mitigation of payment shock on adjustable rate mortgage (ARM) plans through product feature and underwriting policies
- Mortgage Insurance
- Prohibit or restrict product features that correlate to an intrinsically higher risk of loan default, including balloon payments, negative amortization, prepayment penalties, and interest-only payments.

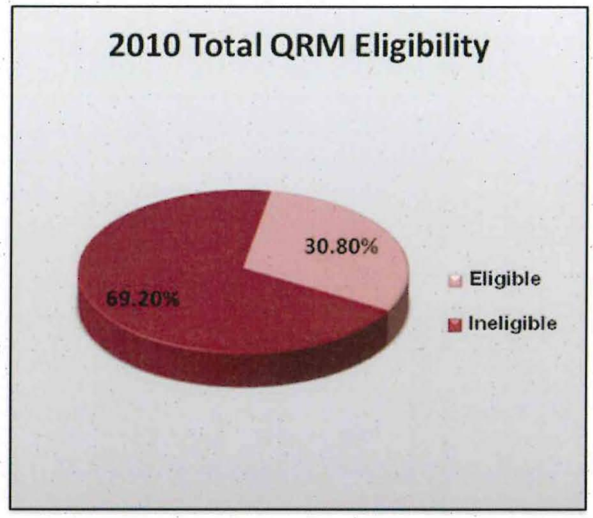
In its March 2011 proposed rule, the rule making agencies added down payment and loan-to-value (LTV) requirements into the definition of a QRM. Based upon the legislative history, Congress clearly intended that down payment and LTV **not** be one of the guiding principles, much less the draconian down payment requirement of 20% on purchase transactions and equity requirements of 25% and 30% on refinance loans that are contained in the proposed rule. QRM, as currently proposed, could destroy what little is left of the housing market and, concomitantly, the U.S. economy.

Notwithstanding its harsh effect on borrowers, particularly low income and minority borrowers, down payment characteristics have far less effect on loan performance than other attributes of borrower characteristics. Recent studies show that increasing down payment decreased the risk of default on average less than 1%, but would on average reduce the availability of credit to more than 20% of the market. While we agree that lowering risk of default is important, the benefits of a large down payment/equity requirement is way out of proportion with its negative impact on availability of credit to consumers. We believe that the negative impact to minority consumers will be even more disproportionate to the reduction of risk of default.

Hard coded debt-to-income (DTI) ratios are also troublesome. While Congress **suggested** that regulators consider payment and debt ratios, it is certainly not a mandate. One, all-encompassing DTI ratio limit does not fit all situations equally and would exclude many consumers who have historically shown responsibility in paying their debts timely. We recommend an approach towards DTI ratios that utilizes underwriting that verifies and takes into consideration DTI ratios, but only in context with the complete loan profile.

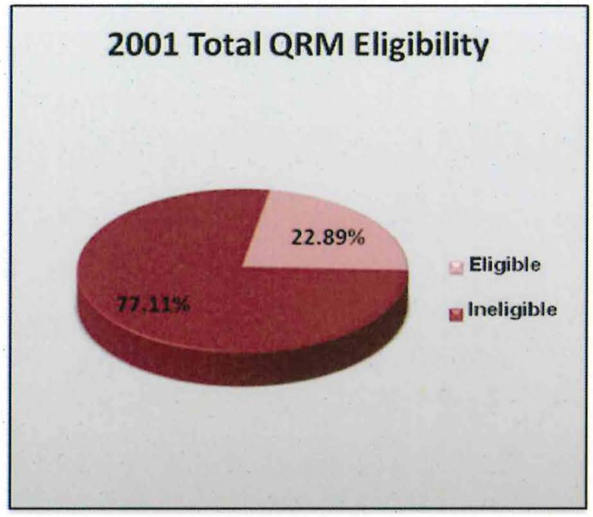
Likewise, regulatory imposed bright line credit history requirements would inevitably result in harsh inequities and unintended consequences. Again, we recommend an approach that includes a comprehensive analysis of credit history, but in context with the complete loan profile.

In reviewing loans made by our company in 2010, 69% of our conventional loans would not have met the proposed definition of QRM.



Interestingly, 99.2% of these loans were fixed rate, the low risk products that are meant to be encouraged.

The year 2010 was somewhat unique in that it was dominated by refinance loans, tending to skew the mix toward a larger percentage of lower LTV loans. To analyze a more typical book of loans, we had to go all the way back to 2001 in order to avoid the depressed years of latter 2008 & 2009, the bubble years of 2004-2007 and the refinance boom of 2002-2003. In 2001, 77% of our conventional loans would not have qualified.



Astonishingly, 99.7% of these loans were fixed rate! The overall industry percentages of non-qualifying borrowers would likely be even greater when adjustable rate mortgages are factored in.

One of Congress' guiding principles in its guidance for defining QRM was to "improve credit access to consumers on reasonable terms". Ironically, these regulations as proposed will have the opposite effect, particularly for low-income and minority borrowers. Of our 2001 book of loans only 12.75% of minorities would have met the proposed QRM definition as opposed to 24.65% of non-minorities.

The implementation of this rule as proposed would magnify the current problems in the housing industry already attributed to the lending crisis. And it **<u>is a lending crisis</u>**, not just a housing crisis. 2010 home sales were down **5%** from the previous year. 2010 home purchase mortgage transactions were down **23%** from the previous year. 2010 home sales were down **15%** from ten years ago. Staggeringly, 2010 home purchase mortgage transactions were down **55%** from ten years before! Given these statistics, the imposition of stricter lending requirements has swung at least far enough, perhaps too far.

A second purpose of the overall Dodd Frank Act, and risk retention specifically, was to reduce the burden on the American taxpayer. However, the QRM proposal appears to increase the risk to the taxpayer. One assertion made by the rule making agencies in an effort to support crafting a restrictive QRM standard is that a sufficient number of higher quality, non QRM loans will be made and available for securitization to support the goal of reinvigorating the private market securitizations. Exempting Fannie, Freddie, FHA and VA loans from QRM, but retaining the restrictive definitions, raises the question of whether lenders will be willing to securitize non QRM loans when viable alternatives remain available under Fannie, Freddie, and Government loan programs. A probable outcome to this structure is that most new loans migrate to these programs or into the portfolios of the "too big to fail" banks, rather than through private market securitizations. This would increase the Federal Government's role in the housing finance market and concurrently, the exposure to the taxpayer.

Another important point in the analysis of revitalizing the private market is the fact that cost to the consumer will inevitably be more on non-QRM loans than on QRM loans, estimated by private studies to be between 0.5% and 3.0% ***in interest rate***. We tend to think that it would be far closer to 3.0% than 0.5%.

Since the comment period just closed on July 22nd on the proposed rule defining QM its definition has not yet been finalized. That notwithstanding, we urge the harmonization of the definitions of QRM and QM. Differing definitions of QRM and QM will result in confusion, conflicts and inequities for borrowers, investors and the public in general. The criteria spelled out in the statute are quite adequate to ensure appropriate protections and fairness to all participants.

Congress never mentioned loan servicing standards in the risk retention provisions of the Dodd-Frank Act. Risk retention has to do with the origination and securitization of loans. To include loan servicing standards in this regulation would be inappropriate and a regulatory overreach.

We feel very strongly that an identical QRM/QM definition, without hardcoded LTV and DTI ratios will support sound underwriting decisions, availability of credit, and mitigation of risk to the taxpayer. Conversely, we believe that a QRM definition with hard coded and stringent LTV and DTI ratios will deprive many deserving borrowers of loans at competitive rates, do significant damage to the housing market, hinder any imminent improvements to the economy and will place increased burdens on the taxpayer.

We appreciate the opportunity to comment on this proposed regulation and your time and consideration of these points. Please let us know if there are any questions.

Sincerely,

J. Bradford Johnson

J. Bradford Johnson
Assistant to the President