MISSOURI CREDIT UNION ASSOCIATION

October 30, 2013

Legislative & Regulatory Activities Division
Office of the Comptroller of the Currency
400 7th St, SW
Washington, DC 20219

Robert deV. Frierson, Secretary
Board of Governors,
Federal Reserve System
20th St and Constitution Ave, NW
Washington, DC 20245

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th St, NW
Washington, DC 20429

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F St, NE
Washington, DC 20549

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
400 7th St, SW
Washington, DC 20024

Regulations, Office of General Counsel
Dept. of Housing & Urban Development
451 7th St, SW
Washington, DC 20410

RE: Don Cohenour, - Interagency Credit Risk Retention Proposal

Dear Sirs and Madams:

On behalf of the 1.3 million credit union members, the Missouri Credit Union Association (MCUA) would like to take this opportunity to express our views on the proposed rule on credit risk retention, which was required by the Dodd-Frank Wall Street Reform and Consumer Protection Act, and was issued jointly by the Office of the Comptroller of the Currency, Federal Reserve Board, Federal Deposit Insurance Corporation, Securities and Exchange Commission, Federal Housing Finance Agency, and Department of Housing and Urban Development (referred to collectively as the agencies).

MCUA supports a fair and efficient secondary market with equitable access for lenders of all sizes and varying loan volumes. We also support strong oversight and supervision of securitizers to ensure the market will generally operate efficiently, despite an economic downturn, to support the needs and interests of borrowers, creditors, investors, and securitizers alike. We believe the proposed QRM definition, which is identical to the Consumer Financial Protection Bureau's (CFPB's) qualified mortgage (QM) definition, is an improvement from the agencies' original credit risk retention proposal that was issued in April 2011. 76 Fed. Reg. 24090 (April 29, 2011). MCUA's overarching concern is that we do not think the QM/QRM should become the only type of mortgage that regulators will permit or that the secondary market will accommodate.

However, absent some flexibility for creditors under this rule, that is precisely what we believe will happen.

While we agree that the proposal's definition of residential mortgage should be in line with the CFPB's rules on and related to QM to reduce compliance burdens and complexity, we urge the regulators to do what they can to ensure non-QM loans can still be successfully originated and sold by creditors. We are very concerned that the unintended consequences of risk retention will be that potential borrowers with a DTI ratio of greater than 43% will be left out of the home mortgage loan market and unable to buy a home. The CFPB's Director, Richard Cordray, has indicated his support for non-QM loans, and we urge the regulators to support this view. One approach that would provide flexibility for creditors to continue originating non-QM/QRM loans would be to allow certain loans to qualify for a lower than 5% credit risk retention requirement. Mortgage loans that reflect a borrower's somewhat higher DTI levels, such as up to 50%, that are originated by creditors with low default and delinquency rates, should be allowed to qualify for a credit risk retention level that is more than zero, the level for QM/QRMs, but less than 5%, such as 1%. The loans should be allowed to be included in QM/QRM pools and securitized in separate non-QM/QRM pools.

We are also concerned about disparate impact issues that we believe will inevitably develop because lenders are incentivized under the rule to generate only QM/QRM loans. The statement on disparate impact that the agencies issued October 22, 2013 is undoubtedly well intended, but few believe it will provide any practical relief or protection if a lender is challenged in court by a consumer who likely should have received a mortgage absent the DTI or other requirements. Facilitating the sale of certain non-QM/QRM loans that meet criteria such as provisions we are recommending will help ensure that creditors will have a market to sell such loans without having to be subjected to the burden of the full 5% risk retention requirement. More important, it will mean that creditworthy borrowers that do not precisely fit the QM/QRM mold can still finance the purchase of a home on reasonable terms.

We appreciate the agencies' effort to address the overly restrictive scope of QRM included in the 2011 proposal, which limited a QRM to a closed-end, first-lien mortgage used to purchase or refinance a one-to-four family property, at least one of which is the borrower's principal dwelling. We believe the increased flexibility provided by expanding QRM will benefit a number of creditors and borrowers, who might otherwise be adversely affected by an overly narrow definition.

To promote and facilitate consistency and uniformity in the definitions of QM and QRM, we support the QM-related aspects of the proposal, but urge the agencies to work to address our concerns with the QM. We also urge the agencies to ensure stakeholders that in the event that changes are made to QM that would negate the benefits outlined above for QRMs, the agencies will update the QRM rule as necessary to preserve such benefits.

Although the agencies believe that the proposed approach of aligning QRM with QM is soundly based, they seek input on an alternative that was considered, but ultimately not selected as the preferred approach. The alternative, referred to as QM-Plus, would take the QM criteria as a starting point for the QRM definition, and then incorporate four additional standards.

We strongly oppose the proposed QM-Plus alternative to QRM, as we believe significantly fewer loans would qualify as a QRM and be exempt from risk retention under this alternative.

The originator would need to determine that the borrower is not currently 30 or more days past due on any debt obligation, and the borrower has not been 60 or more days past due on any debt obligations within the preceding 24 months. Further, the borrower must not have, within the preceding 36 months, been a debtor in a bankruptcy proceeding or been subject to a judgment for collection of an unpaid debt, had personal property repossessed, had any one-to-four family property foreclosed upon, or engaged in a short sale or deed in lieu of foreclosure. We believe it would be prohibitively tedious for underwriting purposes and would also reduce the number of loans eligible for QRM status.

The LTV at closing could not exceed 70%; a down payment of 30% would be required. Junior liens would be permitted only for non-purchase QRMs, and would need to be included in the LTV calculation if known to the originator at the time of closing, and if the lien secures a home equity line of credit or similar credit plan, it must be included as if fully drawn. Property value would be determined by an appraisal, but for purchase QRMs, if the contract price at closing for the property was lower than the appraised value, the contract price would be used as the value. We also strongly oppose this aspect of QM-Plus. We believe a 30% down payment requirement is excessive because such a requirement would exceed even the 2011 QRM proposal. In addition, a 30% down payment requirement would likely have a significant impact on first-time homebuyers by delaying or outright preventing their ability to purchase a home. This aspect of QM-Plus would also mean that fewer loans would be eligible for QRM status. For the reasons noted, we ask the agencies to eliminate QM-Plus as a possible alternative to QRM. In addition, if the agencies choose to pursue QM-Plus, we urge them to incorporate exemptions that would provide flexibility for federally insured mortgage lenders.

As always, we appreciate the opportunity to respond. We will be happy to answer any questions regarding these comments.

Sincerely,

Don Cohenour

Don Cohenour
President