

National Foreclosure Prevention and Neighborhood Stabilization Task Force

February 25, 2013

Monica Jackson
Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street NW.,
Washington, DC 20552

***Re: Proposed Amendments to the Ability to Repay Standards under the Truth in Lending Act,
Docket No. CFPB–2013–0002 or RIN 3170–AA34***

Dear Ms. Jackson:

The undersigned members of the National Foreclosure Prevention and Neighborhood Stabilization Task Force applaud the CFPB for its leadership on the Ability to Repay Standards and Qualified Mortgage Rule (QM). The concurrent proposal released with the final QM rule would allow specialized affordable housing lending to continue alongside the essential reforms of home mortgage lending that begin with QM. Low- and moderate-income families face serious housing cost burdens despite the decline in home values—affordable housing lending helps to ensure they can achieve homeownership affordably. The proposed exemption is necessary and welcome, and we recognize that it must be narrowly tailored and carefully overseen.

About the Task Force

Convened in November 2007, the National Foreclosure Prevention and Neighborhood Stabilization Task Force is a cross-industry group of local and national organizations working to address the impacts of the foreclosure crisis on communities. Our mission is to bring together advocates, practitioners, and other experts from across the country around foreclosure prevention and neighborhood stabilization efforts, to exchange critical information and to help craft policy, legislative, and programmatic initiatives that primarily support low and moderate-income individuals and families.

How the Qualified Mortgage Rule Could Affect Affordable Housing Lending

The final QM rule implements provisions of the Dodd-Frank Act that require lenders to determine a borrower's ability to repay a mortgage and set standards for what mortgage loans would be qualified mortgages. The QM rule addresses the entire mortgage market, including underwriting processes, loan product features, and consumer costs. The rule by necessity applies broadly to what is, for the most part, a standardized mortgage market.

Specialized affordable housing loan programs provide sustainable mortgage loans to low- and moderate-income families that are not otherwise well-served by the mortgage market. Despite the decline in home values nationwide, many low- and moderate-income working families struggle to afford

modest homes.¹ Affordable homeownership programs (alongside assistance for renters) help to address this housing need.

Over time, mission-oriented lenders like state and local housing finance agencies (HFAs), community development financial institutions (CDFIs), downpayment assistance providers (DAPs), community housing development organizations (CHDOs), and others have found ways to underwrite and finance homeownership sustainably, using other factors to compensate for lower down-payments, income sources that do not fit the square box of typical mortgage underwriting, or lack of traditional credit history. Put simply, **specialized affordable housing lenders have found alternate ways to verify borrowers' ability to repay**. Programs such as Massachusetts Housing Partnership's SoftSecond Loan Program, state HFA home loan programs such as the Pennsylvania HOMESTead program, Habitat for Humanity affiliates' loans to partner families, Self-Help's Community Advantage Program, and many others have a proven track record of supporting long-term homeownership using credit counseling, alternate verification of credit history, and targeted financial assistance. Default rates are low and downpayment assistance does not increase the rate of default, as the Community Advantage Program and the SoftSecond program have documented.²

Applying the ability to repay requirements of QM to specialized affordable housing lending could, if applied simplistically, effectively prohibit some programs. Two examples illustrate some of the many complications:

- An inflexible maximum debt-to-income ratio could block relatively small home loans made to low-income borrowers, even though their combined homeownership costs are less than the rent burden they already sustain.
- Some downpayment assistance programs secure the assistance with a second mortgage that is due on sale or refinancing (which ensures the assistance provides long-term homeownership rather than a sudden windfall). However, if the borrower makes required payments and otherwise complies, that second mortgage can eventually be forgiven. QM rules could be read to prohibit such a second mortgage. The forgivable second mortgage might also artificially inflate debt-to-income ratio calculations, exceeding the threshold set in the rule.

Compliance costs for documenting specialized, relatively low-volume affordable housing loan programs could also be a substantial burden for government agencies, nonprofits, and other mission-oriented providers.

The CFPB's proposal to exempt specific mission-oriented lending programs is a reasonable approach that balances the essential credit needs of low- and moderate-income families with the need for strong and even-handed regulation of mortgage markets. Allowing existing, proven mortgage programs to continue is critical, particularly as housing markets recover and home values begin to rise.

¹ Center for Housing Policy, *Housing Landscape 2012*, <http://www.nhc.org/media/files/Landscape2012.pdf>.

² Roberto Quercia, Janneke Ratcliffe, and Allison Freeman, *Regaining the Dream*, University of North Carolina Center for Community Capital, Brookings Institute Press, 2012. Allison Freeman and Jeffrey J. Harden, "Affordable Homeownership: The Incidence and Effect of Downpayment Assistance" University of North Carolina Center for Community Capital Working Paper, February 2013, <http://www.ccc.unc.edu/documents/DownpaymentAssistance2013.pdf>. Information on Pennsylvania HOMESTead available at <http://www.phfa.org/consumers/homebuyers/homestead.aspx>.

The exemption should not, however, create a loophole to allow mortgage lending to avoid QM requirements.

As written, the rule appears narrowly tailored. Several categories of exempt entities are otherwise regulated: CHDOs and DAPs by HUD, CDFI's by Treasury, HFAs by state and local governments. The more general exemption for nonprofits includes additional portfolio and volume limits. We encourage others to comment on whether the specific limits proposed safely allow existing proven programs to continue.

Recommendation

We recommend that the CFPB implement the proposed exemption and remain engaged with affordable housing lending—in other words, do not exempt-and-forget. Using simple measures like year-to-year volume of loan originations, number of new participants in exempt categories, and secondary market participation by exempt entities could help CFPB monitor whether the exemption remains narrowly targeted as planned or whether changes are needed. Hypothetically, a sudden increase in loans from exempt nonprofits, especially if the loans were financed through the secondary markets, could signal a need to investigate more closely and possibly revisit the exemption.

The comments presented here endorse the CFPB's concurrent proposal broadly for recognizing the importance of affordable housing lending and ensuring that it can continue. Some of the signatories may also be submitting specific comments on particular aspects of the rule or on other sections of the concurrent proposal in addition to joining in this Task Force comment letter.

Once again, we appreciate the opportunity to offer comment on the proposed rule. To discuss any of these comments in further detail, please contact Ethan Handelman, Vice President for Policy and Advocacy, National Housing Conference, (202) 466-2121 x238, ehandelman@nhc.org.

Sincerely,

The undersigned organizations and localities of the National Foreclosure Prevention and Neighborhood Stabilization Task Force:

Arizona Community Action Association
Atlanta Neighborhood Development Partnership, Inc.
Catalyst Miami
Center for NYC Neighborhoods.
CFED – Expanding Economic Opportunity
Citizens' Housing and Planning Association
Consumer Federation of America
Enterprise Community Partners
Greater Rochester Housing Partnership
Habitat for Humanity International
Habitat for Humanity of the Chesapeake
Homeownership Mortgage Education
Homeownership Preservation Foundation
Housing Partnership Network

Local Initiatives Support Corporation
Massachusetts Association of Community Development Corporations
Massachusetts Housing Partnership
Mercy Housing
Metro St. Louis Coalition for Inclusion and Equity, M-SLICE.
National Association of Housing and Redevelopment Officials
National Community Reinvestment Coalition
National Community Stabilization Trust
National Council of State Housing Agencies
National Housing Conference
National Housing Institute
NCB Capital Impact
New York Housing Conference
NHS of Kansas City
The Midas Collaborative
The Wisconsin Partnership for Housing Development, Inc.