

ES139348

Congress of the United States

Washington, DC 20515

August 5, 2011

Ms. Mary L. Schapiro, Chairman
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549

Mr. Ben S. Bernanke, Chairman
Board of Governors of the Federal Reserve
20th Street and Constitution Avenue, NW
Washington, DC 20551

Mr. Martin J. Gruenberg, Acting Chairman
Federal Deposit Insurance Corporation
1776 F Street, NW
Washington, DC 20006

Mr. Edward DeMarco, Acting Director
Federal Housing Finance Agency
1700 G Street, NW, 4th Floor
Washington, DC 20552

Mr. John Walsh, Acting Comptroller
Office of the Comptroller of the Currency
250 E Street, SW
Washington, DC 20219

Mr. Shaun Donovan, Secretary
U.S. Department of Housing and Urban Development
451 7th Street, SW
Washington, DC 20410

RECEIVED
2011 AUG 19 AM 11:17
CHAIRMAN'S
CORRESPONDENCE UNIT

Dear Chairman Schapiro, Chairman Bernanke, Acting Chairman Gruenberg, Acting Director DeMarco, Acting Comptroller Walsh, and Secretary Donovan:

We are writing to express our concerns with the proposed Credit Risk Retention rule that implements Section 941 of the Dodd-Frank Act. While there have been a number of issues raised related to the rule's definition of Qualified Residential Mortgage (QRM), we believe attention also must be focused on the proposed QRM credit history standards that as now written will not serve as a strong predictor of default risk. If the QRM is to include credit history standards as part of its eligibility requirements, it should incorporate the reasonable use of credit scores that reflect the need for strong credit risk standards without posing an unreasonable barrier to accessing QRM's.

The proposed QRM credit history standards are limited to a set of derogatory factors that appear on the borrower's credit report. While the proposed rule fails to include any specific data that demonstrates the effectiveness of using these derogatory factors to measure credit risk, concerns exist that the proposed credit history standards would actually result in some of the riskiest borrowers being included under the QRM, while excluding other low-risk borrowers. Clearly, such distorted outcomes are neither desirable nor appropriate and do not support the Congressional intent of creating a pool of a high quality, accessible, low risk loans that warrant exemption from risk retention requirements.

However, these same low risk and high risk consumers are easily identified by the empirically derived, credit scoring models that have been used in the market for decades to effectively manage credit risk and avoid unfair or illegal discrimination. As outlined in the Federal Reserve Board's 2007 Report to Congress on "*Credit Scoring and Its Effects on the Availability and Affordability of Credit*," credit scoring promotes a more efficient marketplace and provides valuable benefits to consumers:

"Credit scoring...increases the consistency and objectivity of credit evaluation and thus may diminish the possibility that credit decisions will be influenced by personal characteristics or other factors prohibited by law, including race or ethnicity. In addition, quicker decision-making also promotes increased competition because, by receiving information on a timelier basis, consumers can more easily shop for credit. Finally, credit scoring is accurate; that is, individuals with lower (worse) credit scores are more likely to default on their loans than individuals with higher (better) scores. [p. 0-5]"

Congress of the United States

Washington, DC 20515

Furthermore, while not all borrowers have high credit scores, most can improve their scores over time and actively reduce their risk profile. Also, by building credit scores into the criteria for determining QRM eligibility, we can reduce costs and risks associated with manual underwriting. A manual review of derogatory factors in the credit file can be accompanied by added costs, delays, errors and transparency concerns.

Moreover, there are several implementation challenges to the proposed QRM credit history standards. Some of the data relied upon in the proposed standards, such as the timing of short sales and repossessions, is not readily available to lenders at the time of underwriting. The proposed standards also permit lenders to determine QRM status on data that is up to 90 days old, this could lead to many of these important decisions being made based on stale information. Additionally, we are concerned that small and medium size financial institutions with scarce compliance resources will be forced to comply with an ineffective, check-the-box regulatory requirement that could result in some institutions taking the disastrous step of substituting the proposed standards for sound underwriting practices.

Today, Regulation B (implementing the provisions of the Equal Credit Opportunity Act) sets standards for lenders to use approved credit scoring models that are "empirically derived, demonstrably and statistically sound." As a result, guidance and oversight exist to try and make certain these scoring models operate effectively and provide an objective assessment of a borrower's credit risk. Congress has and will continue to work to ensure the current system further benefits consumers and all other participants in the residential mortgage market.

Credit risk retention is intended to help foster a strong and healthy securitization market, one that will help us to avoid a repeat of the recent housing crisis. As a result, it is important for us to ensure that we get all elements of this rule right. For the reasons outlined above, if the QRM is to include credit history standards, we strongly urge you to incorporate credit scores in the final rule.

Sincerely,



John Campbell
Member of Congress



John Carney
Member of Congress



Erik Paulsen
Member of Congress



Gregory Meeks
Member of Congress



Robert Dold
Member of Congress



Keith Ellison
Member of Congress



Ed Royce
Member of Congress