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Congress of the United States
Washington, DC 20515

August 8, 2011

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

The Honorable Martin Gruenberg
Acting Chairman
Federal Deposit Insurance Corporation
550 17th Street, N.W.
Washington, DC 20429

The Honorable Ben S. Bernanke
Chairman
Federal Reserve Board
20th Street and Constitution Avenue, N.W.
Washington, DC 20551

The Honorable Mary Schapiro
Chairman
Securities Exchange Commission
100 F Street, N.E.
Washington, DC 20549

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

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

Dear Sirs and Madam:

As you work toward finalizing the Qualified Residential Mortgage (QRM) exemption to the risk retention rule mandated by Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, we urge you to carefully consider the impact that the rule will have on ongoing efforts by Congress and the Obama Administration to pursue housing finance reform and encourage private capital to play a greater role in the U.S. mortgage finance market.

Dodd-Frank unwisely exempted mortgages insured by federal mortgage insurance programs, such as the Federal Housing Administration (FHA), from the risk retention requirement. The regulatory agencies compounded this error by exempting the two government sponsored entities (GSEs), Fannie Mae and Freddie Mac, so long as they remain in federal conservatorship. These two exemptions, which will cover 97 percent of residential mortgage originations, will lead to more loans being guaranteed by taxpayers, who are already on the hook for more than $164 billion in losses at Fannie Mae and Freddie Mac.

In February, the Obama Administration put forward its report to Congress titled "Reforming America's Housing Finance Market." That report, while failing to make specific recommendations for housing finance reform, nevertheless made clear the administration's preference for reducing and ultimately winding down both Fannie Mae and Freddie Mac. The report further stated that "private markets… will be the primary source of mortgage credit and bear the burden for the losses." The Obama Administration and Congress agree that the private market should be the primary source of mortgage credit.

However, the proposed risk retention rule and the aforementioned QRM exemptions would have the exact opposite effect, creating incentives for borrowers and lenders to direct the vast majority of mortgages to Fannie Mae, Freddie Mac, or federal insurance programs offered by the FHA, VA, and USDA. By exempting the GSEs and creating a narrow QRM definition, the rule will create two distinct pools of capital with divergent standards, most notably regarding the use of credit enhancements like mortgage insurance, minimum down payment requirements, and debt-to-income ratios. The result of these discrepancies will be to shift more business toward government backed mortgages, putting taxpayers – rather than private capital – at more risk for most mortgages originated in the United States. It is neither sustainable nor is it in the best interest of the financial markets or U.S. taxpayers for these government programs to dominate the housing finance system.

We urge the agencies to make changes to the proposed rule to ensure more homebuyers have access to safe and affordable mortgages, and to prevent additional market share from shifting to government backed mortgages when private capital is available. It is imperative that the federal government protect taxpayers by reducing their exposure to the mortgage market, rather than increasing it.

Respectfully,

Congressman Jeb Hensarling

Congressman Peter Roskam