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To: Securities and Exchange Commission

Subject: File Number S7-14-11
Credit Risk Retention - Proposed Rule and Request for Comment

Date: May 27, 2011

GreenPath, Inc. (d/b/a GreenPath Debt Solutions) is a nonprofit organization recognized as exempt from taxation under section 501(c)(3) of the Internal Revenue Code. We have been providing financial education and counseling since 1961. We deliver licensed services throughout the United States over the telephone and Internet. We also offer in-person counseling at 60 office locations in 12 states.

GreenPath is certified to provide housing counseling by the U.S. Department of Housing and Urban Development (HUD), and is classified by HUD as a Multi-State Organization. We partner with the Homeownership Preservation Foundation to provide housing counseling through the national Homeowner's HOPE Hotline. We are also approved to provide bankruptcy counseling and education by the U.S. Department of Justice, Executive Office of U.S. Trustees. Our professional counselors are certified by the National Foundation for Credit Counseling (NFCC), and our company is accredited by the Council on Accreditation (COA). We are licensed or authorized to provide debt management services in all 50 states and the District of Columbia.

We commend the Agencies, in their proposed Credit Risk Retention rule, for requiring that home mortgage originators and servicers retain some degree of credit risk in some of the loans they securitize and sell. We would like to offer suggestions related to the following requests for comment.

#106: Is the overall approach taken by the Agencies in defining a QRM appropriate?

GreenPath agrees with the overall approach of establishing criteria for Qualified Residential Mortgages (QRMs) that would not be subject to risk retention requirements. However, the proposed QRM criteria is incomplete because it does not account for the positive impact of pre-purchase housing counseling on risk and loan performance, as discussed further in question #110. It also does not ensure a stable funding source for foreclosure mitigation counseling as discussed in question #126(b). Both of these types of housing counseling have proven to effectively reduce the risk of loan default.

#110: The Agencies seek comment on all aspects of the proposed definition of a QRM.

GreenPath proposes that pre-purchase housing counseling be required for all QRM loans because pre-purchase counseling lowers the risk of loan default. Pre-purchase counseling helps prepare borrowers to successfully plan for and manage home ownership, including ensuring that they buy a home they can afford, understand their loan options, plan for unexpected expenses, etc. The cost of the counseling can be funded by grants, servicers, or added as part of closing costs.

Following are excerpts from a document titled "Measuring the Delivery Costs of Prepurchase Homeownership Education and Counseling," released by NeighborWorks America in 2005:

> For years, advocates of pre-purchase homeownership education and counseling have asserted that this service benefits its customers socially and economically. This assertion has yielded minimal support from key stakeholders. Only recently has empirical evidence emerged that demonstrates a positive and genuine impact due to the service.
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> The effectiveness of pre-purchase education and counseling in improving loan performance is most clearly demonstrated. Several studies that examined the effect of education and counseling on default rates found lower delinquency and default rates.
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> The study of Freddie Mac's affordable lending program (Hirad and Zorn, 2001) provides direct empirical evidence of the service's value, concluding that some types of pre-purchase education and counseling have a significant impact on mortgage delinquency rates. Based on a group of loans from Freddie Mac's portfolio that received this service, 90-day delinquency rates were lowered by an average of 19 percent. Borrowers who received individual counseling experienced a 34 percent reduction in delinquency rates, while borrowers who received classroom and home-study education obtained 26 and 21 percent reductions.
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> Another study, from Ohio State University (Hartarska, Gonzalez-Vega and Dobos, 2002) examined Fannie Mae's affordable-lending program in six states. The study showed that borrowers who had participated in an education and counseling program, developed around a cash flow analysis, had a default rate one-half that of non-counseled borrowers. The authors attributed lower default rates to lenders' and borrowers' increased skill in assessing ability to repay, rather than the borrowers' altered behaviors.
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> A third indirect study (Staten, Elliehausen and Lundquist, 2002) discovered that borrowers who received credit counseling had reduced 30- and 60-day consumer credit delinquency rates (as opposed to non-counseled borrowers) within a 12-month period, three years after counseling.
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> - They were 38% less likely to suffer an account charge off or file for bankruptcy.
> - Their credit scores increased an average of 36 points more than the comparison group.

- They lowered the amount of non-mortgage debt by an average of $14,400 more than the comparison group.

We are concerned that the proposed definition of a QRM will encourage lenders to implement underwriting standards that are too strict --- that make it too difficult for borrowers to obtain credit --- in an attempt to ensure that the loans meet QRM standards. We believe that some of these proposed standards, such as a 20 percent down payment and strict requirements related to delinquency history, can be relaxed with the addition of pre-purchase housing counseling.

#121: The Agencies request comment on the proposed amount and acceptable sources of funds for the borrower's down payment.

GreenPath is concerned that the proposed cash down payment amount is too burdensome for borrowers who have received pre-purchase housing counseling. The proposed requirement --- 20 percent of the lesser of the home's value or its purchase price, plus the difference if the purchase price is more than its appraised value --- is too high for borrowers that have been counseled on planning for and managing home ownership, including budgeting and buying a home they can afford, understanding their loan options, planning for unexpected expenses, etc.

The proposed rules note that data indicate that borrowers with a meaningful equity interest in their properties exhibit a lower risk of default. However, required pre-purchase counseling (discussed previously as part of question #110) should help mitigate the risk sufficiently to require a down payment of five or ten percent of the home's value or purchase price.

#125: The Agencies solicit comment on whether the definition of QRM should include servicing requirements.

Yes, GreenPath agrees that the definition of a QRM should include servicing requirements that positively impact loan risk and performance. Servicer requirements should be expanded to include promoting and potentially funding pre-purchase counseling as discussed in question #110. Servicers should also be required to fund foreclosure mitigation counseling as discussed in question #126(b).

126(a): Should the proposed servicing requirements be more or less robust?

We believe servicing requirements should be more robust because there is ample evidence that pre-purchase counseling and foreclosure mitigation counseling effectively lower risk of loan default.

126(b) If so, how should the proposed servicing requirements be changed?

Servicers should pay for and promote foreclosure mitigation counseling to delinquent borrowers as part of their requirement to initiate loss mitigation activities that reduce the risk of subsequent default. The counseling helps more borrowers stay in their homes, especially when they receive help at the first signs of trouble.

Foreclosure prevention counseling has proven to effectively lower risk of loan default, especially when borrowers talk to a counselor shortly after they become delinquent:

> According to a recent study by the Urban Institute, troubled homeowners who receive housing counseling are 60 percent more likely to avoid foreclosure than borrowers who navigate the process themselves,
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> A Mortgage Bankers Association study released in 2011 found that "housing counseling proves specifically effective when a borrower first falls behind on a mortgage," according to J. Michael Collins, who conducted the study with Collin O'Rourke of the PolicyLab Consulting Group.
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> In a 2010 report on mortgage foreclosures, the Government Accountability Office (GAO) said:
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> - Community group and servicer representatives noted that counseling is most effective at keeping people in their homes if it is offered soon after a borrower first becomes delinquent...
> - Representatives of community groups, local governments, and servicers were generally supportive of efforts to educate borrowers about their rights during foreclosure, and a recent study has demonstrated the effectiveness of such counseling on keeping people in their homes.
> - Representatives of a servicer and local government and a researcher noted that counseling could be more effective at educating borrowers about their rights than servicers' efforts because borrowers might be more willing to talk to a counselor than to a bank representative.

Requiring servicers to support housing counseling and connect delinquent borrowers with housing counselors clearly makes sense to reduce the risk of a delinquent mortgage resulting in foreclosure.

The American Securitization Forum (ASF) has published guidelines to assist mortgage loan servicers and counseling organizations in implementing procedures for reimbursing expenses associated with foreclosure mitigation counseling.

The guidelines specify that counseling expenses may be viewed as servicing advances, and therefore eligible for reimbursement from securitization trust cash flows in the following circumstances:

- For loans that are in default or where default is reasonably foreseeable; and
- Where the servicer concludes, in its reasonable judgment, that the related counseling service has had or is likely to have the effect of mitigating losses and maximizing recoveries on the particular loan.

The guidelines recommend that servicers reimburse up to $150 out of securitization trust proceeds for any individual counseling session. Servicers may consider reimbursing larger amounts in other circumstances.

These guidelines have been in place since October 2007. However, they are guidelines and not requirements. Funding is uncertain from year to year, sometimes from month to month. ASF can choose not extend its guidelines at any time. Even with the guidelines in place, some servicers choose not to fund counseling at all.

In 2010, GreenPath conducted about 50,000 mortgage delinquency housing counseling sessions. Only about 26 percent of those sessions were funded by Federal funds, and that funding source is dissolving because funding for the Housing Counseling Program was recently zeroed out of HUD's 2011 budget. The vast majority of funding for housing counseling must come from the private sector, from mortgage servicers. Without a stable funding source, housing counseling organizations cannot staff to meet consumer demand. Or, worse yet, counseling organizations may be unable to provide any services at all.

Connecting borrowers to housing counselors is also in the best interest of borrowers and servicers in terms of future purchases. The proposed rules state that in order for a securitization transaction to qualify as a QRM, the borrower cannot:

- Be 30 days or more past due on any debt obligation.
- Have been 60 days or more past due on any debt within the preceding 24 months.
- Have filed for bankruptcy, had property repossessed or foreclosed upon, engaged in a short sale, or received a judgment for an unpaid debt within the preceding 36 months.

Ensuring that a borrower receives education and counseling assistance at the first signs of trouble (or sooner) helps limit the damage to the borrower's credit and improves their chances of qualifying for better loan terms in the future.

 # 140: The Agencies seek comment on whether the establishment of national mortgage servicing standards is a more effective means to address the problems associated with servicing of all loans.

We strongly urge the Agencies to incorporate the pre-purchase housing counseling requirement into the credit risk retention rule itself, regardless of whether or not it is ultimately included in national mortgage servicing standards.

Closing

Tax-exempt, nonprofit housing and credit counseling agencies are well-positioned to help relieve the burden of government in reducing credit risk and protecting consumers. Agencies are subject to federal and state laws and regulations, as well as standards and guidelines established by industry trade associations and independent accrediting bodies focused on consumer protection. They are regulated by debt management statutes of 35 states, as well as Internal Revenue Code section 501(c)(3), section 501(q) passed by Congress in 2006 as part of pension reform legislation. These agencies operate under strict conflict of interest rules and other requirements designed to protect consumers.

We appreciate the opportunity to comment on the proposed Credit Risk Retention rules. Thank you for your consideration.

Sincerely,

Rick Bialobrzeski

Rick Bialobrzeski
Director of Government/External Relations