National Consumer Reporting ASSOCIATION

October 30, 2013

Legislative and Regulatory Activities Division
Office of the Comptroller of the Currency
Docket Number OCC-2013-0010

Robert deV. Frierson, Secretary
Board of Governors Federal Reserve System
Docket No. R-1411

Robert E. Feldman, Executive Secretary
Attn: Comment, FDIC
RIN 3064-AD74

Alfred M. Pollard, General Counsel
Federal Housing Finance Agency
RIN 2590–AA43

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
File Number S7-14-11

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
RIN 2501-AD53

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RE: "Credit Risk Retention"

Dear Madam or Sir:

Members of the National Consumer Reporting Association (NCRA)[1] play a focused role in mortgage origination by providing specialty three bureau merged credit reports, as required by Fannie Mae, Freddie Mac, HUD, and others for mortgage lending. In keeping with that specific role, we appreciate the opportunity to offer comments on sections of the Credit Risk Retention proposal most related to credit reporting.

With regard to questions concerning risk retention and debt to income ratios (DTI), we find it ironic that a great deal of attention continues to be paid to the risk retention requirements of section 15, while much of the current process for determination of risk is not being vetted or verified for accuracy. The current determination process requires honesty from both the consumer applying for the loan and the loan originator taking the application to ensure that all debts are disclosed and included in the calculation of the maximum front and back-end DTI ratios. There are significant gaps in the American credit reporting system that exist as a result of rules developed by the governing private companies that maintain the nation's credit records as to who can provide data into the system. These rules prevent many smaller creditors (those with a couple hundred of consumer accounts, as opposed to thousands) from reporting their loans into the system based purely on the size of the creditor, unrelated to the consumer.

As the QM/QRM rules push for higher quality underwriting standards and a focus on the consumers' ability to repay the loan, NCRA continues to stress the critical need for verified and complete data. This is a basic concept that was unfortunately forgotten prior to the financial crisis, thus bringing about the need for this regulation. NCRA feels it necessary to continue to stress the foundational need for obtaining complete verified data for the calculation of the DTI ratios on which so much attention has been paid in the QM/QRM process. DTI information must be accurate and verified to be used as a bright line qualification, otherwise it is unreliable and not worthy of the consideration it is being given in this process. NCRA believes the best way to ensure accuracy is through

[1] The National Consumer Reporting Association is a national trade organization of consumer reporting agencies and associated professionals that provide products and services to hundreds of thousands of credit grantors, employers, landlords and all types of general businesses. NCRA's membership includes two of every three mortgage credit reporting agencies in the United States that can produce a credit report that meets the requirements of Fannie Mae, Freddie Mac and HUD for mortgage lending.

verification by an independent third party with no interest in the outcome of the loans' approval. An independent third party agency that has liability to both the consumer under Federal law for data accuracy, and to the lender under contract law including a risk of buy back assistance if the information provided is inaccurate. This dual liability ensures neutrality with respect to the outcome of a loan's approval, and is best found in a mortgage credit reporting agency.

We also recommend that credit reporting requirements be amended to resume some of the long time standards of the Residential Mortgage Credit Report, (RMCR): this would ensure the accuracy of information computed to determine DTI, and to eliminate gaps in the credit reporting process. These missing accounts are commonly referred to as "alternative" and "non-traditional credit," however they are obligations from creditors of all types and sizes, including those creditors that fall below the minimum number of consumer creditor accounts to be required to report to the national credit bureaus. Under the requirements of the RMCR, universally agreed to be the "gold standard" of mortgage credit reporting quality, these alternative accounts were required to be included. However, industry demands for quicker processing speeds resulted in the use of pure automated reports and credit scores, rather than the verified quality of an RMCR. As a result, documented and verified accounts missing from the national credit bureaus which more completely define the actual DTI, are often are not reported under the current system. Providing complete credit histories on mortgage credit reports, will result in a more accurate DTI and safer lending standards for lenders and consumers alike.

In response to questions about the government-sponsored enterprises (GSEs) Fannie Mae and Freddie Mac: While playing a very important role in providing the liquidity required for a robust housing finance system, the GSEs have, at times, vastly overplayed their power by selecting corporate favorites, (apparent in decisions such as site restriction to FICO and Freddie Mac's LP for credit) which has had the effect of limiting competition and growth in credit scoring and other credit and settlement services. The federal government has specific guidelines regarding the selection of companies for product endorsements and contracts. Many of these agreements were in place at the GSEs before they were taken into Federal conservatorship in 2008. We maintain that the GSEs should be examined with regard to their compliance with these federal guidelines on product endorsements and contracts with private entities, to determine if current practices are not violating Federal purchasing guidelines by restricting competition.

As for the role of the federal government in mortgage lending, NCRA believes there is a need for strong federal oversight of the mortgage lending system, as homeownership is fundamental to our nation's economic and social wellbeing. The role of the GSEs in providing critical financial liquidity that funds the U.S. housing market must be preserved in any future system. NCRA maintains that whatever entity Congress deems appropriate for this role must facilitate open competition for both lending and lending settlement services acquisition in a transparent and fair environment. This entity also must also instill a balance of power between the origination and underwriting segments of the mortgage marketplace. Balancing this complex scale is difficult, given the vast amounts of money at stake in origination, potential losses, as well as fair lending implications that are at risk without a sound underwriting standard. Again, we stress that this process be transparent and foster competition: unlike the closed door, exclusive deals that were common prior to the crisis that have not yet been rectified to date.

Regarding the sections and questions concerning auto lending: the concept of using two credit bureaus for auto underwriting instead of the current single bureau system should not be disregarded, and especially not due solely to concerns of increased credit bureau costs. With almost 20% of new automobile loan terms now extending to 72 and 84 months,[2] the cost of automobile finance is a major factor in a consumer's overall financial health.

The US credit reporting system is voluntary and divided by the three national credit bureaus that openly compete for data. As addressed above, the mortgage lending system requires a multiple bureau report (originally requiring two of the then six national credit bureaus, prior to the requirement of all three of the now combined three national credit bureaus) to try to obtain completeness. There is sound reasoning in requiring a multiple bureau report and such an approach could well serve both the auto lending industry and its consumers.

While the majority of the largest banking entities report to all three national credit bureaus, most community banks, credit unions and collection agencies report to only one or two of the credit bureaus. This creates significant differences in consumer credit files. High impact accounts such as auto loans and collections can create major movement in a consumer's credit score. In a single bureau underwriting standard as is currently used in auto lending, many accounts are potentially missing from the underwriting decision as a result of this voluntary reporting standard.

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[2] http://www.usatoday.com/story/money/cars/2013/10/28/long-term-car-loans/3191819/
More new-car buyers opt for 7 year loans, Chris Woodyard, USA Today, 10/28/2013

Completeness of credit data is paramount to lending safety from an industry prospective and to fair lending standards from a consumer perspective. In the long term, the cost of the credit report is very minor compared to the cost of the interest rate on the loan. Even if the cost of the report doubled, the savings to either the consumer or the lender for the better underwriting decision would likely be less than the actual incremental interest cost of the auto loan for a single day of the multi-year term.[3] This is a marginal cost increase could positively impact both the lender and the consumer for hundreds to thousands of dollars per loan.

A 2003 study[4] conducted by the Consumer Federation (CFA) of America and NCRA that compared the credit scores from more than 500,000 consumers on each of the three national credit bureaus that were accessed simultaneously for a mortgage loan. One of the many findings from this study was that consumers had a similar chance of having a greater than 100 point difference between their three FICO scores, than less than a 10 point difference in the high and low of their three FICO scores. Requiring two of the three national credit bureaus in auto lending would eliminate the chance for a consumer to have divergent scores across different bureaus, and ensure that a more complete credit file was used for the decision. A multiple bureau report would also eliminate the possibility of "gaming" the system in terms of causing undue lending risk, or unfair lending standards, depending on the originator's goal.

It is important to note that if a multiple credit standard is ever implemented, the requirement needs to be that of requiring only two of the three bureaus, so as to assure competition in the wholesale space for auto lending. The lack of competition in the wholesale segment of the mortgage credit reporting industry caused by the three bureau merge requirement has created a massive escalation of wholesale credit reporting costs not found in other wholesale credit reporting channels. By requiring only two of the three national credit bureaus, competition would remain in the auto lending space, while providing more accurate underwriting safety. Further, NCRA believes that the benefits of a fairer underwriting standard and safer lending decisions as a result of requiring two

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3 Ibid, At the average new-car interest rate of 3.94%, the monthly payment on a $28,000, 48-month loan would be $631.46. That works out to a $30,310.08 repayment, including the $2,310.08 in interest or $1.58 per day interest. Same deal, 84 months: $381.95 monthly payment, for a total of $32,083.80 paid, or $4,083.80 in interest which is $1.60 per day in interest.

4 The CFA/NCRA study simultaneously accessed and evaluated more than 500,000 consumers' credit reports and scores from all three national databases, and remains the largest single credit reporting study ever conducted. Available at:
http://www.consumerfed.org/pdfs/121702CFA_NCRA_Credit_Score_Report_Final.pdf

credit bureaus in auto lending underwriting would far outweigh the marginal added credit reporting costs.

In response to questions about the appropriateness of the agency's approach to considering the QRM definitions, and what other factors or circumstances the Federal agencies should take into consideration in defining QRM: NCRA stresses that the current QRM process is based on the same credit reporting requirements used prior to the financial crisis. This process continues to lack credit reporting verification safeguards to ensure completeness and accuracy of the credit reporting data. These safeguards were eliminated in the mid 1990's in a quest for faster and cheaper credit reporting and a score driven automatic underwriting process. While increasing efficiency and lowering costs are admirable goals, it's notable that neither have been completely accomplished by dropping previous safeguards, as in many cases the new system actually increases costs and causes unnecessary delays. Based on this reality, NCRA questions the continued use of the current credit reporting process in the new QRM guidelines. There are better options available, including NCRA's proposed for a "Qualified Mortgage Credit Report," described below.

In the wake of the financial crisis, mortgage lending standards remain very tight, allowing only those borrowers with very good credit to access mortgage loans. With the QM and QRM proposals, this tight credit market is not likely to improve as many lenders have stated that they would not lend outside the "Qualified" standards due to additional risk. With claims of redlining, concerns about fair access to mortgage loans and disparate impact all complicated by the errors in the credit reporting data that affect consumers on the border of credit worthiness the most, there needs to be a system that provides these consumers an opportunity to have their true credit risks analyzed. This need is not currently being met in the system that, with the exception of the higher credit score requirement, is unchanged from the one that led to the mortgage crisis.

NCRA believes that the solution should come from the mortgage credit reporting agencies: the participant in the mortgage industry who is best suited to document consumer credit data on a conflict free basis with regard to the outcome of the loan. The mortgage credit reporting agency's only concern is for completeness and accuracy of the report, so as to limit the legal liability they hold to both the consumer and the lender who hired them. The solution is a new report: The "QMCR – the Qualified Mortgage Credit Report" and "QMCR Score" which would provide a deeper review on a consumer's credit when a formula to detect credit concerns is triggered. This new report would include verifying disputed data and the inclusion of non-traditional or alternative data not currently reported to the credit reporting agencies. The QMCR should be required to be built from the current tri-merged mortgage credit report, and triggered when the consumer's specific credit history contains the following criteria:

- ***A middle credit score less than the lowest allowed for the lenders best rate, and***
- ***A greater than 25 point spread between the high and low scores***

These criteria are important because in the current mortgage underwriting process, the middle credit score is the most important as it is used by the lender to actually price the loan. If that score is more than the score level pre-determined by the lender at which consumers receive the best interest rate, (using 720 as the score required for the best rate, for example) the lender proceeds with the current credit reporting process without change. If the middle score is less than the 720 example, and the other two credit scores not used in the pricing of the loan (the high and low of the three scores) have less than a 25 point difference between them, the lender again proceeds as before using a risk based pricing model that is currently a standard practice in mortgage lending. However when those high and low scores have more than a 25 point spread, the lender would be ***required*** to add the proposed QMCR to the current process.

This change only occurs when the consumer's specific credit situation warrants an additional credit review, which can be layered in as needed by the specific risks. After perpetration of the QMCR and the QMCR Score (about 3 business days) the loan could be sent back through the automated underwriting system for consideration of inclusion as a "qualified" loan for approval. It is imperative for both the safety of the lending institution and the mortgage applicant that this application is not underwritten with questionable credit data or potential missing accounts that could skew debt to income ratios.

Many features of the QMCR would be similar to the time tested and proven Residential Mortgage Credit Report (RMCR) requirements that were drafted, and agreed to by Fannie, Freddie, HUD, FHA, and VA as the only acceptable mortgage credit documentation prior to automated underwriting. The RMCR standards are still believed to produce the best quality credit reports, but require manual underwriting by the GSEs. The new QMCR and QMCR Score would allow for automated underwriting and include a summary of the derogatory data on the consumer report for an added value of both accuracy and financial literacy. The summary would also include a statement about the disclosure of all creditors, even those not being reported to the credit reporting agencies and the legal responsibility and benefit to report them to the mortgage consumer reporting agency to eliminate the conflict of interest of the mortgage originator filtering debt to income altering disclosures.

The QMCR and QMCR Score is a hybrid approach that incorporates the evaluation of more than 40 years of mortgage credit reporting processes. It includes the best practices of the automated underwriting technology systems that revolutionized the mortgage process in the mid-1990's, as well as the safeguards that have protected the lending industry and consumers for decades. When finalizing the QM/QRM rules let us learn from the mistakes that led to the recent housing finance crisis. In so doing so, we must implement a common sense system designed to layer added verifications for increased data and debt to income accuracy, specifically in cases when a consumer's credit shows signs of increased risks to both themselves and the lender. For additional information on this please see the QRM comments filed by NCRA (under the association's previous name, the National Credit Reporting Association) on August 1, 2011.[5]

Thank you for your consideration of the National Consumer Reporting Association's concerns on these important issues. I can be reached at [redacted] or by email at [redacted] for further discussion on these items or to answer any questions.

Sincerely,

Terry W. Clemans
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[5] "Position on the Dodd-Frank Wall Street Reform Proposed Qualified Residential Mortgage Requirements: The Impact of the Qualified Residential Mortgage Requirements on the Housing Industry and an Alternative Approach for Quality Lending Standards," August 1, 2011. Available at: http://www.ncrainc.org/cmss_files/attachmentlibrary/newsletters2/NCRA-QRM-Comments-FINAL.pdf