Lowell Foreclosure Prevention Task Force
450 Merrimack Street,
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Honorable Shaun L. S. Donovan
Secretary
United States Department of Housing & Urban Development
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Washington, DC 20410

Honorable Mary L. Schapiro
Chairman
Securities and Exchange Commission
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Honorable Ben S. Bernake
Chairman
Board of Governors of The Federal Reserve System
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Acting Director
Federal Housing Finance Agency
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Sir or Madam:

The Lowell Foreclosure Prevention Task Force is an ad hoc group working to mitigate the housing crisis in the Merrimack Valley (in Massachusetts). It has, through its member's involvement, significant experience and history with the "real world" of housing purchases and home ownership. The Task Force consists of individuals working for Home Ownership Counseling Agencies, Civic Leaders, Lenders, fully accredited Foreclosure Prevention Counseling Agencies and licensed Loan Originators; the combined experience covers virtually the entire span of pre-buying education to purchasing to loss mitigation and foreclosure prevention. With that as background, the Task Force offers the following comments:

> The Qualified Mortgage (QM) provisions of the Dodd-Frank bills provision (ability to repay) mimic and overlap with the separate provisions for a Qualified Residential Mortgage (QRM) which is the "risk retention" requirement. To provide reasonable guidance, these two Regulations should be aligned. If only "some" provisions of each apply to the other, there is the risk of over-regulation which is equaled only by the possible "loopholes" which will inevitably result.

Additionally, we would emphasize that (as borne out by the many Senators and Representatives who have written to all of the above addressees, who have joint responsibility for establishing the regulation, the Regulations as proposed do not represent what was clearly the intent of the legislation passed by Congress. Various Congressional letters have clearly delineated some of the excessive regulation.. We would call your attention to these conflicts as an example of the Regulations generating "unintended consequences". We specifically reference the letter of May 26th, 2011 from Senator Landrieu and 36 other Senators which is specific in detailing their objections and concludes that "Many borrowers would simply be forced to pay much higher rates and fees for safe loans that nevertheless did not meet the exceedingly narrow QRM criteria." Hopefully it is not your intention to knowingly exceed the legislative guidance given while generating excessive fees and costs to the benefit of a narrowly defined set of beneficiaries.

We would like to comment on some of the presently contemplated requirements for a mortgage to be classified as a QRM:

The borrower must:

Not currently be 30 days late on **ANY** debt obligation

Not have been 60 days late on **ANY** debt obligation within the past 24 months

Not have been in a bankruptcy proceeding, property repossession or foreclosure, short-Sale or deed-in-lieu or have federal or state judgments for unpaid debt within 36 months

Contribute a cash contribution (for purchase transactions) of 20% of the purchase price **and** any closing costs paid by the Buyer (**as well as** any difference between the appraised value and the purchase price

Not exceed under any circumstance the "debt-to-income ratios of **28%** for the "housing ratio" and **36%** for the "total debt to income" ratio.

The property must:

Not exceed a "Loan to Value" limit of 80% for purchases, 75% for rate and term refinances and 70% for cash out refinances

The loan must:

not be "assumable" by any person not a borrower under the original transaction

It is vital to understand that the continual changes in mortgage regulation impact the housing market and conflicting Regulations offered without specific guidance confuse consumers and make it more difficult for Lenders to remain compliant. Unless a thorough understanding of the affects and effects are evaluated based on "real world" scenarios. As shown by the recent financial crisis, many (indeed, most) Risk Management models were not based on correct assumptions. The continued absence of "private money" in the mortgage securitization marketplace, will be further exacerbated by the components of the QM/QRM regulations as presently contemplated and is a deterrent to the oft-stated intent of Congress to" get the government out of the mortgage industry."

To that end, the Comment Period should be extended until a proper evaluation of the impact of QM/QRM definitions can take place with substantial input from those in direct contact with the consumer. Substantial consideration should be given to the projected impact to the U.S. taxpayer should restrictive regulations prevent (or even make more costly) refinances of owner-occupied houses presently "under water" or with high Loan-to-Values.

With specific reference to the components of the proposed Regulations noted above: "Real" people sometimes have credit problems which are temporary in nature and are then resolved through their hard work. More frequently, erroneous items are found in credit reports which negatively impact credit scores and which can be difficult or impossible to remove. A blanket restriction on access to equal credit contradicts FACTA requirements and ECOA.

The requirement for a 20% down payment would not only further devastate an already fragile industry, but there is no substantive study to show that mortgages with 20% down payments perform better than properly underwritten 3.5% or 5% down payments mortgages. Indeed, FHFA's study published as ***"Mortgage Market Note 11-02: Qualified Residential Mortgages"*** of April 11, 2011 documents no significant decrease in delinquencies or defaults when sorted for down payments of 20% vs. 5%.

That ***same study*** showed little (no significant) negative impact when allowing DTI factors to be flexible and determined by sound underwriting principles which take into account the cost of housing in different geographic areas. This study (using FNMA/FHMLC data for 2009, the last year for which complete information is available to be analyzed and a year in which sound underwriting was applied to GSE compliant loans) showed that **over 70%** of mortgages found acceptable by these agencies would **not** have been QRM compliant.

To restrict rate and term refinances to a 75% LTV does not take into account the reality of loss in appraised value over the past 4 years; this provision would exclude borrowers from the opportunity to improve their financial position by refinancing to a lower rate (with the resultant lower monthly payment). From a practical point of view, if the borrower already owns the house and is able to reduce his monthly housing expense, why should artificial and arbitrary limits force them to stay in a worse financial position. To do this is to encourage more homeowners to "walk away" which, one would think, is exactly the opposite of what should be the purpose.

The assumption of an existing mortgage by a borrower who must be qualified to make the payments (underwritten to the same standards as the original borrower) is an inexpensive, efficacious way for a present owner who may, for a variety of reasons want of find it necessary to transfer ownership. A "blanket" restriction against a viable and valuable program indicates a lack of understanding of the legitimate use of the process and the benefits to the homeowner, the new borrower and the housing market.

We thank you for the opportunity to comment on the proposed Regulations and sincerely hope that the value of soliciting direct input based on actual experience will be recognized and that such input will be solicited and evaluated. We have seen far too many programs (HAMP, MHA, HFH) announced and introduced without an appreciation of the consequences or an understanding of the process; consequently, these programs were marginally effective at best and, in some cases led to further confusion and frustration – and hundreds of millions of dollars of tax payer's money being channeled away from more constructive programs.

Respectfully submitted

By:

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