

September 10, 2019

The Honorable Kathleen L. Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552

Re: Response to ANPRM on the Qualified Mortgage Definition

Dear Director Kraninger:

Thank you for issuing the Advance Notice of Proposed Rulemaking (ANPRM) on the Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z) and soliciting our comments. The undersigned organizations, all of which have a strong interest in access to sustainable homeownership and consumer protection, write as a group to underscore the singular importance of ensuring that the GSE Patch does not expire without additional steps being taken to ensure adequate access to mortgage credit.

As you know, in creating the Qualified Mortgage definition, the Bureau carved out an irrebutable presumption of compliance with the ability to repay (ATR) requirements of the Dodd-Frank Act for loans with a debt-to-income (DTI) ratio of 43% where the creditor verified debts and income using the standards set forth in Appendix Q. The Bureau also, as an interim measure, created an irrebutable presumption of compliance with those ATR requirements when the loan was eligible for sale to the GSEs because the loan met the underwriting requirements of the GSEs (the GSE Patch). We believe that the GSE Patch was successful in facilitating access to homeownership for many creditworthy borrowers precisely because it allowed creditors to use a richer and more complex approach in assessing borrowers' ability to repay than that otherwise afforded creditors seeking Qualified Mortgage status.

If the Patch expires with the DTI threshold still in place, and without other adjustments to the Qualified Mortgage definition, we anticipate that the change will negatively affect the consumers for whom access to credit is already hard to come by: low-income borrowers, borrowers of color, and borrowers with student debt.

It is our collective view that DTI ratios alone should not be used to bar access to credit, especially, since relative to other factors, DTI is both a weak predictor of default risk and an imperfect indicator of the ability to repay. DTI ratios instead should be considered within the context of a full set of risk factors that are weighed and balanced against one another to provide the creditor with a comprehensive view of the borrower's financial profile and ability to repay.

Therefore, we believe that, **when the GSE Patch expires, the CFPB should eliminate the 43 percent debt-to-income (DTI) ratio threshold and the associated Appendix Q for prime and near-prime loans as singular requirements for Qualified Mortgage status.** At the same time, the Bureau must take steps to ensure that ability-to-repay remains a key component of loans with qualified mortgage status. We strongly urge you to clarify that all lenders (except those with

explicit exemptions) must comply with statutory ATR underwriting rules. There must be some basis in fact for presuming that QM loans comply with the ATR requirements (which are distinct from the lender's credit risk and underwriting). Some of our organizations will be submitting additional comments reflecting a range of approaches on how to both encourage the provision of responsible, affordable credit and facilitate compliance with the statutory ability-to-repay mandate.¹

Thank you so much for your attention to this letter. We look forward to working with the CFPB to ensure that the complex set of statutory and regulatory requirements designed to protect consumers participating in America's mortgage markets do not instead operate to unfairly bar consumers from those markets.

Sincerely,

Americans for Financial Reform Education Fund
California Reinvestment Coalition
Center for Responsible Lending
Connecticut Fair Housing Center
Consumer Action
Consumer Federation of America
NAACP
NAACP Legal Defense and Educational Fund, Inc.
National Association of Consumer Advocates
National Association of Hispanic Real Estate Professionals
National Community Stabilization Trust
National Consumer Law Center (on behalf of its low-income clients)
National Fair Housing Alliance
National Housing Resource Center
Prosperity Now
The Leadership Conference on Civil and Human Rights
Woodstock Institute

¹ As you know, the Bureau may only adjust the safe harbor criteria if doing so promotes access to responsible, affordable mortgage credit, furthers the purposes of the statutory ability-to-repay requirements including preventing evasion of those requirements, or facilitates compliance with the ability to repay requirements. TILA § 129c(b)(3)(B)(i). Increasing access to credit or reducing regulatory burden are not, by themselves, justifications for adjusting the safe harbor criteria.