September 16, 2019

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

RE: ANPR Response on Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z)

Dear Director Kraninger:

Thank you for the opportunity to comment on the Advance Notice of Proposed Rulemaking (ANPR) on the Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z). I am writing on behalf of Opportunity Finance Network (OFN), a national association of nearly 270 Community Development Financial Institutions (CDFIs) investing in opportunities that create affordable housing, vital community services, and entrepreneurial capital in rural, urban and Native communities. OFN members have cumulatively provided more than $65 billion in responsible lending to help low-income, low-wealth, and otherwise disinvested individuals and communities nationwide. Our membership understands that access to affordable housing is still a key challenge in this country and many CDFIs have worked tirelessly to help underserved, creditworthy borrowers become homeowners.

The U.S. Treasury's CDFI Fund has established a certification process whereby a CDFI applying for certification must demonstrate its commitment to a community development mission and its accountability to its target market. CDFI certification by the US Treasury is recognized as a credential by the CFPB and many other government entities. As a result under Regulation Z[1], certified CDFIs offering mortgage financing are exempt from the Ability-To-Repay (ATR) requirements in the Qualified Mortgage (QM) Rule.

Regarding the ATR-QM Rule, OFN shares the general belief of our partner, the Center for Responsible Lending, who states "the CFPB should choose an approach that will ensure that QM serves its goals of protecting mortgage borrowers while making access to affordable credit widely available[2]" Certain provisions within the ATR-QM rule have provided the proper protections for mortgage borrowers and serve as adequate predictors in evaluating a borrower's ATR.

Several of these protections within the ATR-QM Rule, cited by National Housing Conference (NHC) President David Dworkin[3], include comprehensive underwriting, the establishment of a set of product restructures that reinforce a consumers ATR, and Safe Harbor protections that create an incentive for mortgage creditors to produce compliant QM loans. NHC also states that the current ATR-QM rule provides a legal presumption that creditors originating QMs have complied with ATR requirements and protect unduly risky mortgages by prohibiting certain features such as negative amortization, interest-only periods, and loan terms longer than 30 years. OFN fully agrees that these cited protections are adequate predictors of a borrower's ATR.

However, we have great concern with the 43% Debt-To-Income (DTI) ratio provision, specifically if the GSE Patch expires on January 10, 2021. OFN recommends the Bureau eliminate the DTI metric as it has not served as a strong predictor of a borrower's ATR. According to the Urban Institute, for each year since 2011, the 90-day delinquency rate for loans with DTI ratios over 45 percent is actually less than that for loans with DTI ratios between 30 and 45 percent[4], thus demonstrating the limitations of the DTI predictor. The elimination of the DTI ratio could allow more creditworthy borrowers to get access to prime and near-prime mortgages while still ensuring proper protections for lenders and borrowers under the previously cited provisions in the ATR-QM Rule.

The GSE Patch has allowed Fannie Mae and Freddie Mac to purchase mortgages from borrowers above the 43% debt-to-income (DTI) threshold, many of whom are lower-income, minority, and first-time homebuyers. According to the Urban Institute, the GSE Patch has facilitated access to homeownership for approximately 3.3 million creditworthy borrowers[5]. In 2018 alone, the GSE Patch accounted for an estimated $260 billion, or 16 percent, of home loan originations that met the QM rule because of the GSE Patch[6]. After the GSE Patch expires, Fannie Mae and Freddie Mac will no longer be able to purchase qualified mortgages from borrowers above 43% DTI, therefore impacting millions of creditworthy borrowers with DTIs above this threshold.

OFN appreciates the CFPB's willingness to consider modifications to the ATR-QM Rule and we look forward to working with you to ensure lower-to-moderate income borrowers are being properly assessed on their ATR while still having the best opportunity to become homeowners.

If you have any questions, please feel free to contact me at jhabibi@ofn.org or 215.219.7243.

Thank you,

Jamal Habibi

Jamal Habibi
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[1] Ability-to-Repay and Qualified Mortgage Standards Under the Truth in Lending Act (Regulation Z). Consumer Financial Protection Bureau, 12 June 2013, https://www.govinfo.gov/content/pkg/FR-2013-06-12/pdf/2013-13173.pdf.

[2] Calhoun, Michael, and Tom Feltner. "New CRL Report Outlines Two Proposals to Replace the GSE QM Patch." Www.responsiblelending.org, 8 June 2019, https://www.responsiblelending.org/media/new-crl-report-outlines-two-proposals-replace-gse-qm-patch.

[3] Dworkin, David, "Response to ANPR on Qualified Mortgage Definition," National Housing Conference, August 2019.

[4] Kaul, Karan, and Laurie Goodman. "What, If Anything, Should Replace the QM GSE Patch?" Www.urban.org, Aug. 2018,https://www.urban.org/sites/default/files/publication/98949/2018_10_30_qualified_mortgage_rule_finalizedv2_0.pdf.

[5] Goodman, Laurie, "New Data Confirm the Urgency of Addressing the Expiration of the GSE Patch," Urban Institute, March 25, 2019, https://www.urban.org/urban-wire/new-data-confirm-urgency-addressing-expiration-gse-patch.

[6] Carroll, Pete, "Expiration of the CFPB's Qualified Mortgage 'GSE Patch' – Part 1: GSE Patch accounted for an estimated $260 billion, or 16%, of 2018 home loan originations," CoreLogic, July 11, 2019, https://www.corelogic.com/blog/2019/07/expiration-of-the-cfpbs-qualified-mortgage-gse-patch-part-1.aspx.