AMERICAN FINANCIAL SERVICES ASSOCIATION

ASIAN REAL ESTATE ASSOCIATION OF AMERICA

CONSUMER FEDERATION OF AMERICA

NATIONAL ASSOCIATION OF HISPANIC REAL ESTATE PROFESSIONALS

NATIONAL COMMUNITY REINVESTMENT COALITION

NATIONAL CONSUMER REPORTING ASSOCIATION

WOODSTOCK INSTITUTE

October 30, 2013

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

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

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

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

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
RIN 3064-AD74

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

RE: "Credit Risk Retention"

Dear Madam or Sir:

The undersigned organizations each have a longstanding record of interest in our nation's housing and housing finance policies. We all share a deeply held conviction that policymakers should ensure our nation's housing and finance policies are fair and free of bias or favoritism. It is against that backdrop that our organizations collectively submit this comment in response to Question 89 (parts a–c), which asks "is the agencies' approach to considering the QRM definition … appropriate? Why or why not? What other factors or circumstances should the agencies take into consideration in defining QRM?"

We do not think the QRM definition as currently written is appropriate because it contains in its practical implementation an implicit bias in favor of a single credit scoring brand, FICO, to the exclusion of all others. This, despite the regulators' statement that they "do not believe it is appropriate to establish regulatory requirements that use a specific credit scoring product from a private company."[1] We do not believe that the regulators intended to build-in this unfair bias or favoritism, but that is the clear result. How did this come about?

- The NPR proposal "aligns" the definitions QM and QRM;
- The QM rule provides three options for originating a qualified mortgage, one of which is "loans that are eligible for purchase by the GSEs"[2];
- Both Fannie Mae and Freddie Mac in their seller-servicer guides[3] require that loans be underwritten using FICO score models in order to be eligible for purchase.

As noted above, we do not think it was the regulators' intent to build this unfair "brand endorsement" into the rule, but that's the result since the QM rule effectively

[1] The Federal Reserve Board, the Department of Housing and Urban Development, the Federal Deposit Insurance Corporation, the Federal Housing Finance Agency, the Office of the Comptroller of the Currency and the Securities and Exchange Commission in the Federal Register, Vol. 78, No. 183, p. 57985.
[2] Federal Register, Vol. 78, No. 20, p. 6581.
[3] Fannie Mae's "Single Family Selling Guide": https://www.fanniemae.com/content/guide/sel092413.pdf; Freddie Mac's "Single-Family Seller/Servicer Guide, Volume 1": http://www.freddiemac.com/sell/guide/.

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incorporates by reference the GSEs' underwriting requirements. Because this is the result, we believe it would be appropriate to equate QRM with QM only if the Federal Housing Finance Agency, as regulator and conservator of Fannie Mae and Freddie Mac, were to require the GSEs to: (1) accept loans underwritten using other validated models in addition to FICO models; and, (2) revise their seller/servicer guides and the automated underwriting systems to reflect this change in policy and practice.

Not only would such a change in the GSEs' policies and practices eliminate an unintended agency endorsement of "a specific credit scoring product"; it would also create the potential for millions of well-qualified borrowers who are thin file or infrequent credit users who are unable to be scored by the FICO method to be scored by other validated models and thereby become eligible for QM and QRM compliant loans.

The problem is clear and the solution is simple:

- The problem is that a regulatory bias that disenfranchises millions of potential well-qualified borrowers was unintentionally included in the CFPB's Ability-to-Repay / QM rule and that bias was unintentionally included in the Credit Risk Retention / QRM proposal when the regulators choose to make QRM the "mirror image" of QM.
- The solution is to require the GSEs to accept mortgages underwritten with other validated credit scoring models in addition to the single brand currently permitted.

Thank you for your consideration of this important concern.

Respectfully,

Bill Himpler
Executive Vice President
American Financial Services Association

Jim Park
National Chairman
Asian Real Estate Association of America

Barry Zigas
Director of Housing Policy
Consumer Federation of America

Gary Acosta
Co-Founder & CEO
National Association of Hispanic Real Estate Professionals

John Taylor
President
National Community Reinvestment Coalition

Terry Clemens
Executive Director
National Consumer Reporting Association

Dory Rand
President
Woodstock Institute