

April 20, 2020

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

Dear Director Kraninger:

The undersigned organizations are writing to the Consumer Financial Protection Bureau (Bureau) regarding its rulemaking on the definition of a Qualified Mortgage (QM) as part of the Bureau's Ability-To-Repay/Qualified Mortgage (ATR/QM) Rule.<sup>1</sup> Our organizations represent diverse housing finance stakeholders, including consumer groups, lenders, REALTORS®, mortgage insurers, and other real estate professionals, and we appreciate the opportunity to share our collective perspectives on this important rulemaking in light of the ongoing national health emergency posed by the novel coronavirus (COVID-19). Understanding the great importance of this rulemaking and its impact on consumers' access to mortgage credit as well as underwriting standards in the conventional mortgage market, we respectfully ask that the Bureau: (1) delay the rulemaking due to the ongoing national emergency; *and* importantly, (2) extend the Temporary GSE QM category, more commonly referred to as the "GSE Patch," until the later of January 2022 or one year from the finalization of any proposed rule following an appropriate notice and comment time period.

On March 13<sup>th</sup>, President Trump declared a national emergency<sup>2</sup> pursuant to Section 501 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act<sup>3</sup> in response to COVID-19. Following federal and state policymakers' recent actions to address the health and economic fallout of COVID-19, our organizations are working hard to implement Section 4022 of the "Coronavirus Aid, Relief, and Economic Security Act" (CARES Act)<sup>4</sup> and facilitate broad nationwide mortgage relief for homeowners with mortgages backed by Fannie Mae and Freddie Mac (the GSEs) or a government agency<sup>5</sup> who are directly or indirectly impacted by COVID-19. Further, we support the Bureau's work with financial services stakeholders to disseminate information related to consumer protection. We are concerned, however, with the prospect of the Bureau moving forward with the QM rulemaking during this very complicated and ever-changing situation. Temporarily halting the QM rulemaking and delaying the expiration of the QM Patch would allow the Bureau to remain focused on its response to COVID-19, which we firmly believe is the best use of the Bureau's resources during this national emergency.

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<sup>1</sup> 78 Fed. Reg. 6408 (January 30, 2013).

<sup>2</sup> Proclamation 9994 – Declaring a National Emergency Concerning the Novel Coronavirus Disease (COVID-19) Outbreak, 85 Fed. Reg. 15337 (March 18, 2020).

<sup>3</sup> 42 U.S.C. 5121 *et seq.*

<sup>4</sup> Pub. L. 116-136 (March 2020).

<sup>5</sup> Mortgage relief under Section 4022 of the CARES Act applies to "federally backed mortgage loans," which includes residential mortgages insured or guaranteed by the Federal Housing Administration, U.S. Department of Agriculture, and U.S. Department of Veterans Affairs and mortgages purchased or securitized by the GSEs.

On several occasions<sup>6</sup>, you have indicated that “the Bureau is working to issue, no later than May 2020, a Notice of Proposed Rulemaking seeking comment on possible amendments” to the ATR/QM Rule. This rulemaking, and the finalized QM definition, are critical to ensure that robust guardrails and consumer protections exist for all mortgage lending and that federal policy promotes responsible and sustainable homeownership. To best balance consumer protections, sustainable homeownership, and access to credit, it is critical that housing industry stakeholders have ample time to submit thoughtful and data-driven comments to the Bureau before it finalizes a new, post-GSE Patch QM definition. At this time, the financial services industry is appropriately focusing nearly all of their resources on responding to the health and economic issues facing all Americans resulting from the pandemic. Finally, there have been unprecedented market movements that have occurred since the onset of the COVID-19 national emergency, as private mortgage markets outside of the GSE and government-insured channels have all but seized up and many market participants are shifting their internal operations to facilitate the extraordinary measures taken by federal agencies to help consumers who are directly and indirectly impacted by COVID-19. Releasing the notice of proposed rulemaking (NPR), or allowing the GSE Patch to expire during this national emergency, would significantly impact the housing market and would threaten to further dislocate an already fragile housing market.

Given the unprecedented events surrounding the COVID-19 national emergency, the current turmoil in housing markets, and the response from the public and private sectors, industry participants would not be able to provide meaningful feedback to the Bureau should it proceed with the QM rulemaking. Releasing the NPR and working to finalize a new QM definition would introduce uncertainty into the housing finance system and both the May 2020 timeline for its release and the January 2021 expiration of the GSE Patch are extremely problematic as federal policymakers and industry are focused on assisting consumers who are negatively impacted by COVID-19. Temporarily halting the QM rulemaking would allow the Bureau to remain focused on its response to COVID-19 and follow the actions of several other federal regulatory agencies that have paused or delayed various rulemakings. This includes Director Mark Calabria’s announcement that the FHFA is delaying the release of and comment period for its proposed rule concerning capital requirements for the GSEs.

Thank you for the opportunity to share our collective recommendations related to the Bureau’s work on the QM definition. At the appropriate time, we hope to continue constructive dialogue through a robust comment process on the QM definition, and we welcome the opportunity to serve as resources as the Bureau works toward a proposed, and then final, rule once this national health and economic emergency ends.

Sincerely,

Community Home Lenders Association  
Community Mortgage Lenders of America  
Consumer Federation of America  
Independent Community Bankers of America  
Leading Builders of America

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<sup>6</sup> Letter to Senators Crapo, Brown, Rounds, Warner, Moran and Jones and Representatives Waters and McHenry (January 17, 2020); Testimony before the House Committee on Financial Services (February 6, 2020); Testimony before the Senate Committee on Banking, Housing, and Urban Affairs (March 10, 2020).

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National Association of Federally-Insured Credit Unions

National Association of Home Builders

National Association of REALTORS®

National Community Stabilization Trust

National Consumer Law Center (on behalf of its low-income clients)

Real Estate Services Providers Council, Inc.

U.S. Mortgage Insurers

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