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August 6, 2020

The Honorable Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G Street, NW
Washington, DC 20552
Docket No.: CFPB-2019-0039

Submitted Via: http://www.regulations.gov/

Dear Director Kraninger:

On behalf of the 1.4 million members of the National Association of REALTORS® (NAR), I thank you for your careful review of the qualified mortgage (QM) rule and for providing an extension until a more permanent replacement can deliver access to affordable credit. The qualified mortgage rule helps to support a safe and liquid mortgage market that REALTORS®' clients depend on to fulfill their dreams of home ownership. REALTORS® believe that in light of the pandemic and other potential market turmoil, the CFPB would be prudent to extend the sunset of the QM patch for a year after finalization of the proposed rule.

The National Association of REALTORS® is America's largest trade association, including NAR's five commercial real estate institutes and its societies and councils. REALTORS® are involved in all aspects of the residential and commercial real estate industries and belong to one or more of some 1,200 local associations or boards, and 54 state and territory associations of REALTORS®. NAR represents a wide variety of housing industry professionals, including approximately 25,000 licensed and certified appraisers, committed to the development and preservation of the nation's housing stock, along with its availability to the widest range of potential homebuyers.

The temporary GSE qualified mortgage rule supported access to credit for a broad swath of homebuyers in the wake of the crisis to the pandemic and in between. GSE underwriting has been the standard for the market for several decades. As the CFPB points out in the notice of proposed rulemaking, moving forward without an adequate replacement would harm a significant number of homebuyers. It will take time and investments by small and midsized lenders to adjust to and implement the requirements of the new rule. Larger originators with developed pricing abilities and the legal resources to defend them will have a head start, which could lead to a decline in competition. Originators with links to the secondary market and the ability to create a vertical structure from the primary to secondary market would have an even larger advantage.

In addition, given the recent Supreme Court decision in *Seila Law versus the CFPB* changing the removal protections of the CFPB's leadership, substantial reforms made in the months preceding a presidential election will be more susceptible to change should the Administration change hands. This could cost market participants significant invests as they prepare for the CFPB's proposed changes to the QM regime without the clarity that it will be sustained through a subsequent administration. To this end, it would be best to provide a lengthy finalization and implementation period to avoid the time and expense spent while the nations' mortgage market is simultaneously facing a looming instability due to the end of unemployment insurance that will impact the mortgage and servicing industries.

Following the finalization of the original QM rule in 2013, the CFPB provided a year for implementation. NAR Research surveyed a group of affiliated lending institutions and found that as of the 4th quarter of 2013, "16.7% of respondents indicated that they were already adapted, while an additional 44.4% indicated that it would take less than 3 months. Those that felt it would take three to six months were 27.8% of the sample and 11.2% of the sample indicated that it would take either six to nine months or nine months to a year."[1] This long lag in preparation suggests that the ability of originators to adapt their systems and legal processes will take significant time. As such, any change to the QM patch should be implemented over a period of at least one year.

Finally, this change will not occur in isolation further complicating matters and potentially harming creditworthy borrowers. The administration is also seeking to make changes to the Enterprises' capital standard. Analysts have estimated that this proposed rule will cause mortgage "rates [to] increase by an average of 15 to 20 basis points while the GSEs remain in conservatorship and 30 to 35 basis points if they were released from conservatorship."[2] Since the average prime offer rate is based on conventional conforming loans in the primary mortgage market survey produced by Freddie Mac, that change will affect the average prime offer used in the proposed rule. Thus, to the extent that these changes are advanced on the current schedule, additional time should be given for the CFPB to study the impact of the FHFA's proposed capital rule on pricing, consumers, and the market, and to originators to adopt to the multiple challenges presented.

Thank you for your time and consideration of this vital issue. NAR looks forward to further collaboration with the CFPB in supporting access to safe and affordable mortgage credit. If you have any questions, please contact Ken Fears, NAR's Senior Policy Representative for Conventional Finance and Lending Policy, at 202.383.1066 or KFears@Nar.Realtor.

Sincerely

Vince Malta
2020 President, National Association of REALTORS®.

[1] NAR Research. "Survey of Mortgage Originators". January 2014.
[2] Parrott, Jim, Ryan, Bob, and Zandi, Mark. "FHFA's Capital Rule Is a Step Backward". Urban Institute, July 2020.