



Credit Union National Association

cuna.org

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May 21, 2013

The Honorable Shelley Moore Capito
Chairman
Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Capito:

On behalf of the Credit Union National Association (CUNA), thank you for holding a hearing entitled: "Qualified Mortgages: Examining the Impact of the Ability to Repay Rule." CUNA is the largest credit union advocacy organization in the United States, representing nearly 90% of America's 7,000 state and federally chartered credit unions and their 96 million members.

Earlier this year, the Consumer Financial Protection Bureau (CFPB) issued a final "Ability to Repay" rule to implement provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act regarding a borrower's ability to repay a residential mortgage loan and establishing requirements for "qualified mortgage" under the Truth in Lending Act, Regulation Z.

Under the rule, creditors generally must consider eight underwriting factors for a residential mortgage loan to assess the borrower's ability to repay the loan: current or reasonably expected income or assets; current employment status; the monthly payment on the covered transaction; the monthly payment on any simultaneous loan; the monthly payment for mortgage-related obligations; current debt obligations, alimony and child support; the monthly debt-to-income ratio or residual income; and, credit history. Creditors must generally use reliable third-party records to verify the information they use to evaluate the factors. These are factors that credit unions generally consider in granting loans.

It is important to note that credit unions also make every effort to tailor a loan product that meets our member's needs, and do so in a way that minimizes risk and default. While the CFPB has made several changes to the rule in response to our concerns, we continue to have several issues with the rule. These are concerns that we have already raised with the CFPB.



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First, for a loan to be considered a “qualified mortgage” the consumer’s total monthly debt to total monthly income at the time the loan is made cannot be higher than 43%. We believe this ratio should be expanded. Credit unions often write mortgage loans for members that have a 45% debt-to-income ratio and may even go as high as a 50% debt-to-income ratio under certain limited circumstances. Even so, our mortgage losses remain very low.

Second, for a mortgage to be considered a “qualified mortgage” total points and fees generally may not exceed 3% on a loan of \$100,000 or greater. While these amounts are indexed for inflation, these limitations may be problematic for some credit unions. As the loan amount decreases, certain fees cannot decrease alongside of it – some fees are fixed and are not dependent upon the size of the loan. Therefore, the smaller the loan amount, the easier it is for fees to constitute a higher percentage of the total loan. This is especially true as the fees are currently defined as including loan originator compensation, and affiliate and non-affiliate fees.

Finally, credit unions should be allowed to continue writing non-qualified mortgage loans where necessary and appropriate for their members, without retribution from examiners. In order that creditworthy borrowers with debt-to-income ratios somewhat above 43% can still have access to mortgage credit. CFPB Director Richard Cordray has recently indicated that he agrees with this position.

However, CUNA understands that there may be little interest on the investment side for non-qualified mortgage loans. Also, examiners may be critical of credit unions and assess their CAMEL ratings accordingly if credit unions do not make mortgages that meet the Qualified Mortgage standards. We believe credit unions should retain the flexibility they currently have to either hold a loan in portfolio or sell it on the second mortgage market based on the needs of the credit union to manage its assets and obligations.

On behalf of America’s 7,000 credit unions and their 96 million members, thank you again for holding today’s hearing.

Best regards,

A handwritten signature in black ink, appearing to read "Bill Cheney", with a long, sweeping underline that extends to the right.

Bill Cheney
President & CEO