



October 29, 2013

Regulations Division, Office of General Counsel  
Department of Housing and Urban Development  
451 7<sup>th</sup> Street SW., Room 10276  
Washington, DC 20410-0500

Docket # HUD-2013-0093

Title: Federal Housing Administration (FHA): Qualified Mortgage Standards for FHA-Insured Single-Family Mortgages (FR-5707)

To whom it may concern:

On behalf of the Credit Union Association of New York (Association), I am writing to comment on the Department of Housing and Urban Development's proposed promulgation of a modified Qualified Mortgage definition as authorized under the Dodd-Frank Act. Given the need to balance heightened underwriting standards against insuring that responsible qualified consumers are not denied home ownership, HUD's proposed QM regulation is certainly important. However, we believe the promulgated regulation should do even more to ensure that qualified homeowners are able to obtain mortgages.

The underwriting standards set by HUD have an important impact on credit unions—many of which provide access to FHA-insured loans to their members. The overarching goal of credit unions is to ensure that they are able to make responsible loans to qualified members. With that goal in mind, this regulation should be strengthened. Most importantly, HUD should follow the lead of Fannie Mae and Freddie Mac and exclude, or at least raise, the debt-to-income cap on QM mortgages for FHA loans. Negative amortization loans and exploding ARMs are products that directly contributed to the housing crisis. In contrast, is a mortgage with a 44-percent debt-to-income categorically less deserving of legal protections than a mortgage with a DTI one point lower?

Rather than trying to establish an ultimately arbitrary DTI limit, consideration of a borrower's debt should be what it is today: an important criterion that is most appropriately considered on a case-by-case basis. As the FHA explains on its website: "The FHA does offer some flexibility in the debt-to-income ratio requirements under the right circumstances. An FHA loan applicant may be given some leeway with debt-to-income ratios when they have a large down payment, net worth that shows the lender's flexibility is justified, or the buyer has the ability to pay more because of a large savings account or other cash reserves."

The Association supports HUD'S proposal to effectively exclude the cost of the annual mortgage insurance premium from the limit on points and fees. The inclusion of these costs would undermine the FHA program by making FHA loans less likely to be QM mortgages and more vulnerable to legal attacks. However, using a variable that will most likely periodically change in response to changing economic conditions will present operational challenges for credit unions calculating QM triggers.

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As a result, premium insurance should just be excluded from the QM points and fees calculation. Additionally, our member credit unions have expressed concern that a 3-percent limit on points and fees for mortgages exceeding \$100,000 is already too restrictive—particularly if the CFPB expands the number of charges that must be considered when calculating a mortgage APR. Consequently, the point and fee limit should be raised in the event that the CFPB redefines APRs.

The implementation of QM regulations is only the first step in a dramatic restructuring of the mortgage industry. HUD is one of a handful of entities empowered under Dodd-Frank to establish QM standards different from the CFPB, and it's important that HUD uses this authority to benefit low- and moderate-income consumers who will be the most vulnerable to tougher lending standards. Ensuring that credit unions have the most underwriting flexibility possible, consistent with Dodd-Frank's requirements, is the best way of achieving that goal.

Sincerely,

A handwritten signature in black ink, appearing to read "W. J. Mellin". The signature is fluid and cursive, with a large initial "W" and "J" and a distinct "Mellin" at the end.

William Mellin  
President/CEO  
Credit Union Association of New York

