July 27, 2020

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

RE: Qualified Mortgage Definition
Docket No. CFPB-2020-0020, RIN 3170-AA98,

Dear Director Kraninger:

On behalf of the clients and communities we represent, the undersigned organizations urge you to pause revising the definition of Qualified Mortgages (QM). Our country as a whole is in turmoil brought on by the COVID-19 pandemic, its still-emerging economic fallout, and the rising calls for racial justice. The Bureau, consumers, and all sectors of the mortgage industry must focus our available energy on avoiding a massive foreclosure crisis that especially threatens communities of color, particularly Black and Latinx communities. QM must wait.

The residential mortgage market is by far the largest and most complex of all the consumer financial services markets within the Bureau's jurisdiction. We have seen in recent memory how misalignments in this market can cause lasting damage to our economy while destroying generations of accumulated wealth in African American communities. Any adjustments to the QM definition pose the risk of upsetting a market that is at the center of our national economy. Given that the Bureau's current rulemaking priorities are "intended to protect the stability of the financial sector and enhance its recovery,"[1] we believe that the CFPB will want to assure robust engagement on every aspect of the QM proposal.

Full engagement by all stakeholders is not possible now. Our resources are significantly strained in responding to the pandemic, its economic fallout, and the disproportionate racial impact both are having on communities of color. We do not yet know how long this crisis will last and how severe it will be. We do know that COVID-19 has not subsided and that millions of homeowners, disproportionately Black and Latinx, are struggling.

We note that many elements of the mortgage finance system are in flux, which makes preparing comments even more difficult. We have seen during the pandemic both a large boom in refinancing and a tightening of certain aspects of the credit box, particularly for mortgage originations. Over 4 million homeowners—more than 8% of the residential mortgage market (and higher for private-label and non-GSE agency loans)—are in forbearance, and more than another million are more than 60 days late on their mortgages but not in forbearance. The ability of mortgage servicers to successfully transition this many homeowners back to regular payments or through foreclosure is uncertain at best; any disruption on the servicing side of the

[1] Blog on Unified Agenda by Assistant Director Susan M. Bernard, June 30, 2020, *available at* https://www.consumerfinance.gov/about-us/blog/spring-2020-rulemaking-agenda/.

business could impact in unpredictable ways the origination side of the business, including the market's risk appetite.

Many more questions make this the wrong time to revise the GSE patch: the future role of the GSEs in the mortgage market; what the mortgage market will look like after the pandemic; what regulations can best implement the statutory ability to repay requirement. There are also questions about the reliability of credit scores and the weight of disaster codes, which complicate any comment on using price as an alternative to the patch. Any assumptions we might make as to the impact of pricing as an adequate substitute for more direct measures of ability-to-repay are rendered uncertain by the current economic conditions.

Finally, we note that the Bureau itself in the Notice of Proposed Rulemaking signaled the lack of reliable data to measure the costs and benefits of its proposals. The Bureau admits that there is more data analysis to be done to fulfill its responsibility to evaluate ability to repay in the QM context. Congress required the Bureau to study ability to repay, and it must complete this evaluation before any proposal can be made.

The current economic uncertainty, the strain on the resources of advocacy groups and industry in responding to the current crises in our country, and the relative weakness of the available data on critical aspects of the rulemaking all counsel for a delay in the rulemaking until the end of the national emergency, with the CFPB maintaining the status quo in place. Such a delay would allow full and rigorous comment on the important policy and macroeconomic concerns raised by the CFPB's proposal. Absent a delay, the CFPB cannot realistically hope for a full, robust, and transparent dialogue on an issue of central importance to our economy, as well as the stability of neighborhoods across the country and the aspirations of millions of families.

In order to focus on the pandemic and to complete the necessary data analysis, we urge the Bureau to pause this plan and extend the current GSE patch to maintain the current market while we address the coronavirus. By doing this, we can best secure our current homeowners while avoiding unnecessary market turmoil.

Sincerely,

National Consumer Law Center (on behalf of its low-income clients)
Atlanta Legal Aid Society, Inc.
Center for Community Progress
Consumer Action
Indiana Legal Services
Legal Aid Chicago
Legal Aid Society of Southwest Ohio
Michigan Poverty Law Program
Mountain State Justice (WV)
National Association of Consumer Advocates (NACA)
National Fair Housing Alliance

New Mexico Center on Law & Poverty
North Carolina Justice Center
Woodstock Institute