Statement for the Record

Hearing of the Senate Committee on Banking, Housing, and Urban Affairs: Assessing the Effects of Consumer Finance Regulations

Submitted by: Center for Responsible Lending (CRL)

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Thank you for the opportunity to submit a statement for the record for this hearing. We write to express our support for post-crisis lending rules that have made the financial system safer by eliminating abusive financial products, reining in reckless behavior, and encouraging more effective oversight. We support statements prepared by other members of various consumer and civil rights organizations who are generally in support of the Consumer Financial Protection Bureau (CFPB) as a key achievement of the Dodd–Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank). However, CRL focuses our statement on the positive impacts of Dodd-Frank and CFPB's regulations on mortgage lending.

Abusive loan terms, rather than "risky" borrowers, bear the greatest responsibility for the foreclosure crisis and the Great Recession of 2008. During the subprime boom, misaligned incentives and deregulation allowed mortgage brokers, lenders, and investors to profit greatly from reckless and predatory lending, and toxic financial products. As a result, approximately 8.2 million families have lost their homes to foreclosure since 2004[1]. As of January 2016, about 1.2 million families are seriously behind with their mortgage payments, and just under half a million are in some stage of foreclosure.[2] Recently released Home Mortgage Disclosure Act (HMDA) data also shows that the American dream of homeownership and wealth building remains out of reach for too many creditworthy lower-wealth households.

The CFPB's Qualified Mortgage (QM) rule addresses the frontline abuses that caused the crisis. The QM rule, along with the Ability-to-Repay standard, defines bright line standards to move the market away from high-risk, unsustainable loans and ensure borrowers have an ability to repay the loans they receive. In fact, recent studies conducted prior to the enactment of the QM rule have shown that, comparing borrowers of similar risk characteristics, loans with sensible QM-like terms had significantly lower foreclosure rates than subprime loans with toxic and unpredictable features.[3] As stated above, irresponsible mortgage lending that ignored borrowers' ability to repay their loans resulted in a foreclosure tsunami that disproportionately impacted communities of color—eviscerating a generation of wealth building. QM and Ability-to-Repay

[1] CORELOGIC, CORELOGIC, CORELOGIC REPORTS 38,000 COMPLETED FORECLOSURES IN JANUARY 2016 YEAR, PRESS RELEASE (2016) *available at* http://www.corelogic.com/about-us/news/corelogic-reports-38,000-completed-foreclosures-in-january-2016.aspx.

[2] *Id*. See also CORELOGIC, NATIONAL FORECLOSURE REPORT: JANUARY 2016 4-5 (2016) *available at* http://www.corelogic.com/research/foreclosure-report/national-foreclosure-report-january-2016.pdf.

[3] CENTER FOR COMMUNITY CAPITAL, BALANCING RISK AND ACCESS, UNDERWRITING STANDARDS AND QUALIFIED RESIDENTIAL MORTGAGES 15 (2012) *available at* http://www.responsiblelending.org/mortgage-lending/research-analysis/Underwriting-Standards-for-Qualified-Residential-Mortgages.pdf.

promote underwriting and product features that will help reorient the housing market back toward safe, sustainable lending for all borrowers.

The mortgage rules also offer stability to the mortgage market. The QM rule, with its consumer-friendly product requirements, is designed to facilitate the flow of mortgage credit, as lenders will have the confidence in knowing the suitability of loans for borrowers at the time of origination. This in turn reduces the overall likelihood of borrower default. This certainty will benefit consumers, lenders, and investors alike, leading to a more sustained housing recovery.

Contrary to some predictions, the reforms of Dodd-Frank, including QM and Ability-to-Repay, have not hurt mortgage lending or access to credit. Instead, these reforms support sustainable homeownership and wealth building opportunities for lower-wealth households. While it has been just over two years since the QM rule was implemented, early and current reports confirm that QM has not negatively impacted mortgage lending or access to credit. In fact, the 2014 HMDA data does not show that federal mortgage underwriting rules (Ability-to-Repay and QM) have had a "cooling effect" on mortgage lending.[4] The data is very much consistent with market trends immediately preceding the implementation of the rule. The Federal Reserve's seasonally adjusted origination numbers show a slow increase in monthly originations from 2011 through 2014 with no discernable decrease when the rules were fully implemented in January 2014. After considering the data the Federal Reserve concluded "The HMDA data provide little indication that the new ATR and QM rules significantly curtailed mortgage credit availability."[5] Reports by Federal Reserve's Senior Loan Officer Survey also show that the majority of respondent loan officers did not note a change in their business post-QM rule.[6] Analysis of previous Federal Reserve Studies and current mortgage lending data from the Urban Institute, a nonpartisan policy research organization, also notes that lending has not decreased due to the QM rule.[7] The Urban Institute attributes continued access to credit problems to overcorrections in the post-crises market that results in constrained lending. This environment is most harmful to lower-wealth households with lower FICO scores and lower down payment needs.[8]

The QM rule also allows for flexibility by loan size and lender type. The CFPB carefully considered and continues to consider and act upon the impacts of the rule on various types of loans and lending institutions. The result allows for differences to accommodate small and rural

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[4] BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE 2014 HOME MORTGAGE DISCLOSURE ACT DATA (2015), *available at* http://www.federalreserve.gov/pubs/bulletin/2015/pdf/2014_HMDA.pdf.

[5] *Id*., at 3.

[6] BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, JANUARY 2016 SENIOR LOAN OFFICER OPINION SURVEY ON BANK LENDING PRACTICES 35-41. (2016), *available at* https://www.federalreserve.gov/boarddocs/snloansurvey/201602/fullreport.pdf.

[7] BING BAI ET. AL, HAS THE QM RULE MADE IT HARDER TO GET A MORTGAGE? 7, URBAN INSTITUTE (2016) *available at* http://www.urban.org/sites/default/files/alfresco/publication-pdfs/2000640-Has-the-QM-Rule-Made-It-Harder-to-Get-a-Mortgage.pdf. SEE ALSO JIM PARROT ET. AL., DATA SHOW SURPRISINGLY LITTLE IMPACT OF NEW MORTGAGE RULES, URBAN INSTITUTE, (2014) *citing* BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, JULY 2014 SENIOR LOAN OFFICER OPINION SURVEY ON BANK LENDING PRACTICES (2014), *available at* http://blog.metrotrends.org/2014/08/data-show-surprisingly-impact-mortgage-rules.

[8] Jim Parrot and Mark Zandi, Opening up the Credit Box 5 (2013), *available at* http://www.urban.org/UploadedPDF/412910-Opening-the-Credit-Box.pdf.

lenders and smaller loans.[9] While the QM rule is just over two years old, the data suggest that the market is slowly improving and access to credit for creditworthy borrowers has slightly improved, as well. There is little, if anything, to suggest a rollback of consumer protections will help borrowers.

In addition to its implementation of the Dodd-Frank mortgage protections through thoughtful deliberation and rulemaking, the CFPB has played an important role in improving consumer protections in other areas as well. Its research has improved understanding of issues like overdraft fees on bank accounts, issues in student lending, and the high-cost of abuses in the small dollar loan market. Enforcement actions have returned billions to consumers who have been harmed by unfair and deceptive financial services practices across the board. The CFPB is considering rulemaking in several areas, including strong and safe regulation of payday loans, arbitration clauses, debt collection, prepaid accounts, and overdraft fees. The CFPB also continues to include consumer groups, civil rights organizations, and industry into a collaborative discussion process in addition to its own data collection and research. These are finance areas where increased oversight and protections are much needed, and we support their efforts to do more on behalf of consumers and on behalf of creating a more stable financial market.

We should remember lessons from the immediate past – Congress should not roll back the protections that will prevent the onslaught of defaults and foreclosures that caused the crisis. We can increase access to credit by providing well-underwritten loan products to creditworthy borrowers from lower- and moderate-income households. Borrowers from lower-wealth households have succeeded and can succeed with appropriate underwriting and safe mortgage loans. Instead of focusing on false causes of the crisis, Congress needs to give its full attention to the economic recovery—which will remain out of reach for too many Americans as long as creditworthy borrowers struggle to keep or purchase a home. We must move forward, not backward, on the reforms that protect borrowers and promote sustainable homeownership.
The reforms of Dodd-Frank and the CFPB help consumers, lenders, and the economy by the promotion of responsible loan products.

[9] ABILITY-TO-REPAY AND QUALIFIED MORTGAGE RULE, SMALL ENTITY COMPLIANCE GUIDE, CONSUMER FINANCIAL PROTECTION BUREAU (2014), *available at* http://files.consumerfinance.gov/f/201411_cfpb_atr-qm_small-entity-compliance-guide.pdf.