NHRC

National Housing Resource Center
846 North Broad Street, 2nd Floor
Philadelphia, PA 19130-2234

The National Housing Resource Center (NHRC) is a national advocacy organization serving the interests of the non-profit housing counseling community and, by extension, housing consumers, especially those from communities that have been underserved historically in the primary housing market, such as borrowers of color, low- and moderate-income borrowers, and borrowers from rural communities. NHRC appreciates the opportunity to address some of the questions raised by Senate Banking Committee staff that are especially relevant to the non-profit housing counseling community. NHRC previously submitted more general comments and draft legislative language in a letter to Chairman Johnson and Ranking Member Crapo dated October 11, 2013 ("the October 11th NHRC letter), which is attached here. Where these earlier comments are relevant to a specific question, they will be referenced here.

Prior to answering specific questions, NHRC would like to address mortgage originator approval by the FMIC (or comparable entity). While S. 1217 does not provide for FMIC to approve mortgage originators, the important role that mortgage originators play in the housing finance system warrants establishing minimum standards for their participation.

Mortgage Originator Approval

In the same way that S.1217 requires other market participants to be approved by the FMIC in order to participate in the system, mortgage originators should be required to meet certain minimum standards and be approved by the FMIC (or comparable entity) in order to be eligible to originate loans that are sold into the system. Mortgage originators are critical participants in the housing finance system and must be subject to appropriate oversight. Among the FMIC's (or comparable entity's) mortgage originator approval duties and responsibilities should be the authority to establish standards for approval, including with respect to:

- Working with and funding pre-purchase housing counseling;
- The originator's general character and fitness;
- The risk presented by the originator to the Mortgage Insurance Fund (or comparable fund); and
- The originator's track record of originating loans to a broad segment of the mortgage market in its service area, including the full spectrum of geographies, housing types, and populations, as well as originating loans to low- and moderate-income borrowers and to borrowers from traditionally hard-to-serve and underserved markets.

The FMIC (or comparable entity) should also have the power to review, suspend, and revoke a mortgage originator's approval if it subsequently determines the mortgage originator is no longer in compliance with its approval requirements.

Tel: (215) 765-0048 Email: bdorpalen@hsgcenter.org Web: www.hsgcenter.org

<u>Servicing Standards and Oversight:</u>

Should a new housing finance system include servicing standards, either explicitly or in uniform securitization agreements? If so, what standards should be included?

A new housing finance system should include servicing standards, both explicitly and in the uniform securitization agreements. Specific servicing standards that should be included are a prohibition on dual tracking, strong language access provisions, and a requirement that servicers make all loss mitigation options available to all borrowers and offer borrowers loan modifications that prioritize homeownership to the greatest extent possible consistent with the interests of investors.

For specific suggested legislative language on servicing standards, please see the October 11th NHRC letter draft legislative language on approval of servicers (section 212) and uniform securitization agreements (section 223).

<u>Underwriting:</u>

Should underwriting criteria be established in statute? If so, what underwriting criteria do you support (i.e. minimum downpayment, QM definition, QRM definition)? Please provide empirical data on what percentage of the market will be covered or excluded by those criteria and historical loan performance related to particular underwriting standards. If the CFPB's definition of QM is used in a new housing finance system, how would that impact the likelihood of market participants making non-QM loans? If not, would the government guarantee be vulnerable to legal liability on loans that are reinsured by the government but do not qualify as a QM loan? Should the underwriting standards vary to provide counter-cyclical coverage? Should the loan limits vary by geographic region?

Should pre-purchase counseling be an additional or mitigating factor? Are there other items that should be considered as additional or mitigating factors?

Underwriting criteria should not be established in statute. Specific underwriting requirements, such as requiring a minimum down payment or maximum back-end ratio exclude large numbers of well-qualified borrowers. Especially likely to be shut out by such bright-line underwriting requirements are borrowers from communities that have been underserved in the mortgage market historically, such as borrowers of color. A recent analysis by the Federal Reserve System, for example, found that roughly one-third of black and Hispanic borrowers would not meet the CFPB's QM requirements, which are also written into S. 1217, based on the debt-to-income ratio (DTI) requirement alone.[1] Good underwriting requires the flexibility to consider a potential borrower's entire financial picture to determine his or her capacity and propensity to repay a loan, not legislating hard-and-fast rules that arbitrarily exclude well-qualified borrowers. NHRC is specifically opposed to S. 1217's five percent down payment requirement and its requirement that eligible mortgages comply with the ability-to-repay and qualified mortgage rule adopted by CFPB, but also generally opposes establishing any underwriting criteria in statute.

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[1] Rachel Witkowski, *Blacks and Hispanics Likely to Be Hurt by 'Qualified Mortgage' Rule*, AMERICAN BANKER, Oct. 22, 2013 (available online at http://www.americanbanker.com/issues/178_204/blacks-and-hispanics-likely-to-be-hurt-by-qualified-mortgage-rule-1063055-1.html).

However, should underwriting criteria be included in the legislation, it would be essential to include mitigating factors to provide some flexibility in underwriting and minimize the extent to which well-qualified borrowers are excluded. Pre-purchase counseling provided by a HUD-approved housing counseling agency is an especially powerful mitigating factor that should be included for any underwriting criteria that are included in the legislation.

The value of pre-purchase counseling lies in the multi-tier process it uses to ensure clients are prepared for homeownership. Pre-purchase counseling begins with an in-depth analysis of the client's credit history, income, savings, and budget to ensure the client understands their overall financial picture, including what they are and are not able to afford. Unlike other participants in the home purchase process, housing counselors do not have an interest in any particular outcome, such as the client purchasing a home. In fact, housing counselors regularly advise clients that they are not prepared for homeownership, in which case they will work with the client to correct whatever financial shortcomings need to be addressed. For clients who are prepared for homeownership, pre-purchase counseling also helps the client understand different mortgage products so the borrower can make an informed decision when shopping for a mortgage. Pre-purchase counseling also works with the client to ensure the client fully understands, and is prepared to meet, all of the costs and responsibilities associated with homeownership.

The effectiveness of this approach is borne out by data on the performance of counseled mortgages as compared to non-counseled mortgages. A 2013 study measuring the impact of pre-purchase counseling and education provided by the NeighborWorks housing counseling network on 75,000 loans originated between October 2007 and September 2009, found that clients receiving pre-purchase counseling and education were one-third less likely to become 90 or more days delinquent than were borrowers who did not.

For specific suggested legislative language on underwriting standards, please see the October 11th NHRC letter draft legislative language on definitions (section 2). There is also a proposed definition for "HUD-approved housing counseling agency" in this section.

In establishing the Office of Underwriting, the FMIC (or comparable entity) should include in the assisting lenders with originating high-quality, lower risk, eligible loans the use of HUD-approved housing counseling agencies. Please see the October 11th NHRC letter draft legislative language on the Office of Underwriting (Section 231).