Industry Groups React to QM

By: Jann Swanson | Thu, Jan 10 2013, 2:09 PM

Many **industry groups** have commented this morning on the final **Qualified Mortgage/Ability to Repay rule** issued today by the Consumer Financial Protection Bureau (CFPB). Most of the comments received so far have been generally favorable and have lauded CFPB and the process they used in arriving at the rule. Here is a sampling of the comments we have received.

Debra Still, Chairman, **Mortgage Bankers Association (MBA)** said that MBA agrees that the goal of the regulations, ensuring that borrowers receive loans they can repay, is in everyone's best interests. Its concern has always been that this goal be balanced with other housing policy objectives, particularly ensuring the availability of mortgage credit to qualified borrowers.

While she cautioned that MBA needed time to **carefully examine** the new rules, Still applauded CFPB for offering a legal safe harbor to lenders when they originate loans under the qualified mortgage standards. "This approach should allow lenders to offer sustainable mortgage credit to a great number of qualified borrowers without having to risk unreasonable and overly punitive litigation and penalties."

However, MBA remains concerned that certain aspects of the rule could curb competition, increase costs, and tighten credit availability for borrowers. Still referenced in particular the 3 percent cap on points and fees as being "overly inclusive as it related to compensation and affiliates. Loans with the same interest rate, terms, and out of pocket costs should be treated the same under the rule regardless of the organization structure or business model of the lender." She also pointed to the 150 basis point above benchmark threshold for safe harbor provisions, questioning whether it will impact the access of too many borrowers.

Fred Becker, President and CEO, **National Association of Federal Credit Unions** (**NAFCU**) welcomed the inclusion of a safe harbor for credit union loans that meet the rule's qualified mortgage standard. "Credit unions have always been responsible lenders seeking to meet their members' needs with safe and sound products," he said. "NAFCU strongly believes that the safe harbor approach is preferable for all parties involved in a mortgage loan transaction as it provides parties clarity and certainty, and consequently discourages frivolous lawsuits, claims or defenses."

But even with the safe harbor in place, Becker said NAFCU still has concerns. "It has been our members' experience that a rigid approach to regulation is counterproductive, often unworkable and frequently leads to unwanted results," Becker said. "As the rule is likely to have greater effect on smaller institutions, NAFCU will continue to pursue avenues and solutions that will limit the rule's impact on credit unions, including seeking an exemption for small, federally insured lenders."

The **Center for Responsible Lending (CRL)** focused on the consumer protection aspects of the rule saying that its broad definition of "Qualified Mortgage" means that significant protections affording under the Dodd-Frank Wall Street Reform Act will extend to families "who in the past too often were steered into abusive financial products."

"Ideally, the new rules would have allowed any borrower with a qualified mortgage to challenge a lender who failed to evaluate if the borrower could afford the loan," the CRL press release said. However, they do allow borrowers to hold lenders accountable on the riskiest types of mortgages, those in the subprime market where the problems that led to the housing crisis were concentrated."

The advocacy group said that it will closely monitor the resolution of how **yield spread premiums** will be counted when it comes to defining a qualified mortgage. "The CFPB **should not create a loophole** that allows high fee loans to count as a qualified mortgage." If this issue is appropriately resolved, the rules will be-all in all-good for consumers, investors and the economy, CLR said. Applying these fair, understandable standards to the mortgage market will foster a more competitive and robust housing industry.

Barry Rutenberg, Chairman of the **National Association of Home Builders (NAHB)**, said it is essential that the new rule strike the proper balance that encourages lenders to appropriately provide credit to qualified borrowers while assuring financial institutions they will be protected from lawsuits if they follow the rule's criteria.

"Our initial review of the QM rule indicates that this balanced approach can be achieved," he stated. NAHB is encouraged that regulators heeded concerns from the housing industry to craft a broad standard that includes many of today's sound mortgage products, including fixed-rate and adjustable-rate mortgages, under the QM standard."

Noting that the rule does not take effect for a year he said, "It is essential that regulators act prudently and thoughtfully in the coming year to implement this rule in a sensible manner to avoid disruptions to the housing finance system and ensure qualified borrowers can obtain affordable credit."

The **Independent Community Bankers of America (ICBA)** said it was encouraged that the final rule includes accommodations it had advocated for community banks. ICBA President and CEO Camden R, Fine commented, "Excessively rigid rules would threaten to force community banks out of the mortgage market, making it harder for Main Street consumers to get a home loan and slowing the nation's housing recovery. ICBA appreciates CFPB's recognition of community banks as common-sense, relationship lenders that help their communities thrive."

Provisions structuring the "qualified mortgage" standard as a legal safe harbor and treating certain balloon-payment loans as qualified mortgages will help Main Street lenders continue providing mortgage credit to meet the needs of their customers and communities, he said.

The statements generally praised the manner in which CFPB had taken their respective organizations concerns into account in formulating the rule. Still said, "Director Cordray and the staff at the CFPB undertook a deliberative and inclusive process to create this rule, and we commend their approach and effort. Every step of the way, they took the time to listen and understand the range of stakeholder concerns with this rule, which may be the single most impactful rule that will affect mortgage lending in this country coming out of the Dodd-Frank law."

The **Coalition for Sensible Housing Policy** commented on the matter as well.

“Now that federal regulators issued the Qualified Mortgage (QM) rule, it is important they complete the next step, which is to finalize the Qualified Residential Mortgage (QRM) rulemaking. Regulators **were correct to reconsider their original QRM proposal**, because imposing additional down payment requirements beyond those that have historically been required, such as a 20 or even a 10 percent down payment, would keep millions of credit-worthy borrowers out of the housing market, block private capital from competing throughout all segments of the market, prolong the housing crisis, and maintain the government’s overly large footprint on the housing market. Instead, regulators should preserve a role for prudently underwritten, privately-insured low down payment loans. As a diverse coalition of lenders, real estate professionals, and consumer and civil rights advocates, the Coalition for Sensible Housing Policy calls on regulators to propose a revised QRM definition that tracks the QM in order to ensure that all qualified borrowers have access to affordable and safe mortgage credit."

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