April 5, 2021

Dave Uejio
Acting Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, DC 20552

Re: Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z): General QM Loan Definition; Delay of Mandatory Compliance Date, Docket No. CFPB 2021-0003

Dear Acting Director Uejio:

U.S. Mortgage Insurers (USMI)[1] represents America's leading providers of private mortgage insurance (MI). Our members are dedicated to a strong housing finance system backed by private capital that enables access to affordable and sustainable mortgage finance for borrowers, while also protecting Fannie Mae and Freddie Mac (the GSEs) and the American taxpayer from mortgage credit-related losses. The private MI industry has nearly 65 years of expertise in underwriting and actively managing mortgage credit risk and has helped 35 million borrowers purchase a home or refinance an existing mortgage. Given our experience balancing prudent underwriting with access to affordable credit, the private MI industry is uniquely qualified to provide insights on federal policies concerning underwriting standards for the conventional mortgage market.

USMI appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (Bureau) Notice of Proposed Rulemaking (NPR)[2] to delay the mandatory compliance date of the December 2020 General Qualified Mortgage (QM) final rule (2020 Final Rule).[3] USMI understands that changes to the QM framework, including the delay of the mandatory compliance date and extension of the Temporary GSE QM category (GSE Patch), will broadly inform underwriting standards and processes throughout the conventional mortgage market and we appreciate the Bureau's thoughtful analysis of migrating to the new pricing-based General QM definition under the 2020 Final Rule. To best ensure that home-ready borrowers have uninterrupted access to affordable and prudently underwritten conventional mortgages, it is critical that there be a smooth transition to the new General QM standard.

In our comments below, USMI will discuss the following observations and recommendations:

1) The interplay between the proposed extension of the GSE Patch and the January 2021 amendments to the Preferred Stock Purchase Agreements (PSPAs).
2) The value of increased monitoring and access to mortgage underwriting data for policymakers and housing finance stakeholders.

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[1] USMI's membership comprises the following private mortgage insurance companies: Essent Guaranty, Inc.; Genworth Mortgage Insurance Corporation; Mortgage Guaranty Insurance Corporation; National Mortgage Insurance Corporation; and Radian Guaranty, Inc.

[2] 86 Fed. Reg. 12839 (March 5, 2021).

[3] 85 Fed. Reg. 86308 (December 29, 2020).

Interplay between the proposed extension of the GSE Patch and the January 2021 amendments to the PSPAs

If finalized as proposed, mortgage lenders will be permitted to use three different standards to achieve QM status for mortgages associated with applications received prior to October 1, 2022:

1) The 2013 General QM definition (2013 Final Rule)[4] with a 43 percent debt-to-income (DTI) maximum and use of Appendix Q to calculate borrower income and debt;
2) The 2020 Final Rule's pricing-based definition with a QM threshold of 225 basis points (bps) above the Average Prime Offer Rate (APOR) with verification and consideration standards specified by the Bureau, which include the GSEs' guides;[5] and
3) The GSE Patch, unless the GSEs exit conservatorship prior to October 1, 2022.

The extension of the GSE Patch is designed to provide lenders with underwriting flexibility during the 15-month delay of the mandatory compliance date. Some extension in compliance flexibility could prove especially beneficial since some lenders, especially smaller institutions such as community banks and credit unions, might not be ready to comply with the 2020 Final Rule's July 1, 2021 mandatory compliance date. While the GSE Patch was created as a temporary seven-year QM category, it is important to note that it has successfully maintained credit availability in the conventional mortgage market since January 2014.[6] It has been especially important for enabling minority, younger millennial, retiree, non-W-2 earner, and low-income borrowers to obtain mortgage financing in the conventional market. Research from the Urban Institute[7] concluded that the "GSE Patch disproportionately benefits minority borrowers and borrowers whose incomes are at the lower end for new homeowners" and CoreLogic[8] analysis shows that a significant portion of total loan origination volume (for example, 16 percent in 2018) was QM-eligible solely due to the GSE Patch.

The NPR, however, recognizes that, if finalized, it could be affected by "policies, agreements, or legislation created by parties other than the Bureau" and specifically contemplates that the "PSPAs for Fannie Mae and Freddie Mac or restrictions of FHFA, as regulator and conservator of the GSEs, may restrict the GSEs from purchasing loans with certain attributes or characteristics."[9] In September 2008,

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[4] 78 Fed. Reg. 6408 (January 30, 2013).

[5] 85 Fed. Reg. 86334 (December 29, 2020). "Under the final rule, this safe harbor includes relevant provisions from Fannie Mae's Single Family Selling Guide, Freddie Mac's Single-Family Seller/Servicer Guide, FHA's Single Family Housing Policy Handbook, the VA's Lenders Handbook, and the Field Office Handbook for the Direct Single Family Housing Program and Handbook for the Single Family Guaranteed Loan Program of the USDA, current as of the proposal's public release." Codified as Paragraph 43(e)(2)(v)(B) in Supplement I to Part 1026.

[6] The Bureau itself has recognized the value of the GSE Patch for lenders based on its compliance certainty and flexibility, since the GSEs' automated underwriting systems (AUSs) and guides can be easily updated, as well as the immediate liquidity available to mortgage lenders through the robust secondary market that is available for loans originated to the GSEs' standards. CFPB, *Ability-to-Repay and Qualified Mortgage Rule Assessment Report* (January 10, 2019).

[7] Urban Institute, "New Data Confirm the Urgency of Addressing the Expiration of the GSE Patch" (March 25, 2019).

[8] CoreLogic Insights Blogs, "Expiration of the CFPB's Qualified Mortgage 'GSE Patch'" (Part 1: July 11, 2019; Part 2: July 19, 2019; Part 3: July 26, 2019).

[9] 86 Fed. Reg. 12850 (March 5, 2021).

the FHFA placed the GSEs into federal conservatorships and entered into the PSPAs[10] with the U.S. Department of the Treasury to provide financial support from the federal government. The GSEs have remained in federal conservatorship for more than 12 years, during which time the terms of the PSPAs have been modified several times, including most recently on January 14, 2021.

Section 5.14(c) of the January 2021 amendments[11] limits the GSEs' acquisition of loans beginning July 1, 2021 to QM loans, exclusive of the GSE Patch.[12] Absent further modifications to the PSPAs, effective beginning July 1, 2021 the GSEs will be restricted to acquiring loans that meet the General QM definition under either the 2013 Final Rule (43 percent maximum DTI and Appendix Q) or the 2020 Final Rule (225 bps over APOR and Bureau-approved verification and consideration standards), subject to very specific exceptions. While the NPR would extend the GSE Patch until October 1, 2022, the current terms of the PSPAs would effectively render the GSE Patch unworkable since the GSEs will no longer be authorized to purchase loans in reliance on the GSE Patch.

As such, USMI urges the Bureau work expeditiously with Treasury Secretary Janet Yellen and FHFA Director Mark Calabria to further amend the PSPAs to restore authority for the GSEs to acquire mortgages in reliance on the GSE Patch.

The value of increased monitoring and access to mortgage underwriting data for policymakers and housing finance stakeholders

As the Bureau moves forward with work on the QM framework, policymakers and housing finance stakeholders would greatly benefit from greater access to mortgage origination data to assess the extent to which the QM standard balances the need for prudent underwriting standards with access to affordable mortgage credit. Waiting five years for a "look back" report to assess how the QM framework operates in the mortgage market creates a significant lag in understanding consumers' access to mortgage credit and homeownership. Expanded access to updated origination data is critical to understanding market trends, access to credit, and the QM credit box – this is especially true in a "rising rate" and "rising price" environment where consumers face significant affordability challenges.

Accordingly, USMI encourages the Bureau to expand access to mortgage origination data, at the investor level, by making the National Mortgage Database (NMDB) available to housing finance stakeholders. The NMDB, which is jointly funded and administered by the Bureau and FHFA, provides quarterly data on a national representative five percent sample of closed-end first-lien mortgages and is intended to aid federal policymakers with monitoring lending products and the health of the

[10] Fannie Mae Senior PSPA with Treasury (September 26, 2008), available at https://www.fhfa.gov/Conservatorship/Documents/Senior-Preferred-Stock-Agree/2008-9-26_SPSPA_FannieMae_RestatedAgreement_N508.pdf; Freddie Mac Senior PSPA with Treasury (September 26, 2008), available at https://www.fhfa.gov/Conservatorship/Documents/Senior-Preferred-Stock-Agree/2008-9-26_SPSPA_FreddieMac_RestatedAgreement_508.pdf.

[11] Fannie Mae Letter Agreement (January 14, 2021), available at https://home.treasury.gov/system/files/136/Executed-Letter-Agreement-for-Fannie-Mae.pdf; Freddie Mac Letter Agreement (January 14, 2021), available at https://home.treasury.gov/system/files/136/Executed-Letter-Agreement-for-Freddie%20Mac.pdf.

[12] The Section 5.14(c) prohibits the GSEs' acquisition of certain loans on or after July 1, 2021, including loans that are not Qualified Mortgages as defined by 12 CFR 1026.43(e)(2), (5), (6), (7), or (f) with certain exceptions.

mortgage market. The housing finance system would benefit from stakeholders' access to the NMDB and enhanced ability to track access to credit, new products in the market, overall health of mortgage markets, loss mitigation and loan modification programs, and affordable lending. This expansion would allow housing finance stakeholders to constructively engage with the Bureau and other federal agencies regarding mortgage market observations and recommendations following analysis of datapoints such as, but not limited to:

- Borrower demographics (race, ethnicity, age, gender, etc.)
- Geography (location of the property)
- Lending channel (conventional, FHA, VA, etc.)
- Loan purpose (purchase, refinance, cash-out refinance, etc.)
- Occupancy (primary residence, second home, investment property, etc.)
- Spread over APOR
- Mortgage performance status
- Loan characteristics
  - Loan-to-value (LTV) ratio
  - DTI ratio
  - Credit score

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Thank you again for the opportunity to comment on the Bureau's proposed delay of the mandatory compliance date for the General QM 2020 Final Rule and extension of the GSE Patch. We appreciate your consideration of our perspectives on how to best transition to the new General QM definition while balancing prudent underwriting and credit risk management with borrower access to mortgage finance credit. USMI and our member companies appreciate the Bureau's thorough review of this very important issue and we look forward to continued dialogue as the Bureau proceeds with issuing a final rule and potentially revisiting other elements of the General QM definition.

Questions or requests for additional information may be directed to Lindsey Johnson, President of USMI, at ljohnson@usmi.org or 202-280-1820.

Sincerely,

Lindsey D. Johnson
President
U.S. Mortgage Insurers