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August 3, 2020

Comment Intake – QM Extension of Sunset Date

Bureau of Consumer Financial Protection

1700 G Street, NW

Washington, DC 20552

**RE:** Docket No. CFPB-2020-0021 or RIN 3170-AA98; Qualified Mortgage Definition under the Truth in Lending Act (Regulation Z); Extension of Sunset Date

To Whom It May Concern:

The Housing Policy Council (“HPC”)<sup>1</sup> appreciates the opportunity to comment on the Consumer Financial Protection Bureau’s (“Bureau”) proposed extension of the expiration of the category of Qualified Mortgages (“QMs”) that are eligible for purchase or guarantee by Fannie Mae or Freddie Mac (collectively, the government-sponsored enterprises, or “GSEs”) (the “GSE Patch”).

HPC is supportive of the Bureau’s efforts to revise the General QM definition in its concurrent proposed rulemaking, and to extend the expiration of the GSE Patch in a manner that does not disrupt the market and restrict the availability of affordable credit for consumers. HPC agrees with the Bureau that the GSE Patch should be extended until the General QM rulemaking is final and in effect.

We are concerned, however, that, as proposed, the GSE Patch expiration provision, in concert with the effective date of the General QM rule will cause a gap in which neither the new General QM nor the GSE Patch would apply. This result would lead to confusion and harm to consumers and all mortgage market participants.

As drafted, the GSE Patch would be available only for covered transactions consummated on or before the earlier of either: (i) the GSEs ending conservatorship; or (ii) the effective date of a final rule on the General QM. In the General QM proposed rule, the Bureau states that the revised General QM would apply to covered transactions for which creditors receive an application on or after this effective date. Read together, these two provisions would create a gap in which rule would apply. For example, if the General QM is effective on April 1, meaning it would apply to transactions for which creditors receive an application on or after April 1, the GSE Patch would apply only to loans consummated on or before April 1. If a loan

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<sup>1</sup> The Housing Policy Council (HPC) is a trade association whose members are among the nation’s leading mortgage originators, servicers, insurers & data/settlement service providers. Founded in 2003, HPC advocates for a competitive marketplace that embraces accountability, transparency and consistency. Our interest is in the safety and soundness of this system, equitable regulatory treatment of all market participants and the reliance on lending practices that create sustainable home ownership opportunities leading to long-term wealth and community building for families.

application is received on March 15 but not consummated before April 1, neither the GSE Patch nor the revised General QM would apply. We believe this result is not the Bureau's intent.

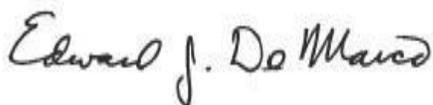
To rectify this regulatory gap, HPC recommends that the GSE Patch expiration and the General QM be aligned to focus on the application date, rather than consummation date. We propose that the GSE Patch would be available only for covered transactions for which creditors receive an application on or before the earlier of either: (i) the GSEs ending conservatorship; or (ii) the effective date of a final rule on the General QM.

An alternative approach would be to tie the GSE Patch expiration and the revised General QM to the consummation date, rather than the application date. We are concerned that such an approach would result in a significantly reduced amount of time for implementation of the revised General QM rule. Under that approach, mortgage lenders, and others in the mortgage industry, would need to implement the revised General QM rule well before the effective date to ensure that loans consummated on the effective date are in compliance with the rule. If the Bureau connects the expiration of the GSE Patch and the effectiveness of the revised General QM to the date on which creditors receive an application, there will be a smooth transition, with enough implementation time, and without significant confusion or consumer harm.

This comment letter is focused on the expiration of the GSE Patch itself, but in our comment letter on the proposed rule on the General QM, we plan to emphasize the need for an orderly transition from the current General QM to the new General QM. There is a need for clear rules and guidance for the transition from the current rules to the new rules for the non-GSE segment of the market as well. For example, an application for a loan that is not eligible for purchase or guarantee by the GSEs (e.g., a jumbo loan) that is received prior to the effective date of the new General QM but closes after that effective date will be subject to the existing standards, including the debt-to-income limit of 43 percent and Appendix Q, not the new General QM. Therefore, we encourage CFPB to carefully consider the transition period, both for the expiration of the GSE Patch and for the transition from the current General QM to the new General QM. As part of that consideration, we also request that the CFPB work closely and in coordination with the Federal Housing Finance Agency and the GSEs to ensure a smooth transition from the current regulatory regime to the new regime.

Again, thank you for the opportunity to comment on this proposed rule that will extend the GSE Patch until the new rules take effect, an objective HPC supports. Please contact Meg Burns, Executive Vice President, at 202-589-1926 with any questions.

Yours truly,

A handwritten signature in black ink that reads "Edward J. DeMarco". The signature is written in a cursive style with a large initial "E".

Edward J. DeMarco  
President  
Housing Policy Council