



FEDERAL RESERVE BANK *of* KANSAS CITY

January 2, 2014

SR Letter 13-20 & CA Letter 13-23 (Interagency Statement on Supervisory Approach for Qualified and Non-Qualified Mortgage Loans)

To the Chief Executive Officer of Each Tenth District State Member Bank, Bank Holding Company, and Savings and Loan Holding Company:

The Federal Reserve, in conjunction with the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency, issued an interagency statement that clarifies safety-and-soundness expectations and Community Reinvestment Act (CRA) considerations for regulated institutions engaged in residential mortgage lending in light of the Consumer Financial Protection Bureau's (Bureau) Ability-to-Repay and Qualified Mortgage Standards Rule (Ability-to-Repay Rule).

The interagency statement is intended to guide institutions as they assess the implementation of the Bureau's Ability-to-Repay Rule, which takes effect January 10, 2014. The statement indicates that financial institutions offering residential mortgage loans will not be subject to any additional regulatory scrutiny, from either a safety-and-soundness or consumer protection perspective, based on a loan's status as a qualified or non-qualified residential mortgage loan. Regardless of their product offerings, institutions are still expected to meet the credit needs of their community, including low- and moderate-income neighborhoods, consistent with prudent underwriting and risk management practices.

A copy of the joint SR and CA letter is attached. Please direct any questions concerning the guidance or policy statement to your Federal Reserve Bank of Kansas City central point of contact or Consumer Affairs contact at (800) 333-1010.

Sincerely,

James H. Hunter
Vice President – Examinations & Inspections

Linda S. Schroeder
Vice President – Consumer Affairs



BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D.C. 20551

DIVISION OF BANKING
SUPERVISION AND REGULATION

DIVISION OF CONSUMER AND
COMMUNITY AFFAIRS

SR 13-20

CA 13-23

December 13, 2013

**TO THE OFFICERS IN CHARGE OF SUPERVISION AND APPROPRIATE
SUPERVISORY AND EXAMINATION STAFF AT THE FEDERAL RESERVE
BANKS AND TO FINANCIAL INSTITUTIONS SUPERVISED BY THE FEDERAL
RESERVE**

**SUBJECT: Interagency Statement on Supervisory Approach for Qualified and
Non-Qualified Mortgage Loans**

Applicability: This guidance applies to all institutions supervised by the Federal Reserve, including those with \$10 billion or less in total consolidated assets.

The Federal Reserve and the other federal financial institutions regulatory agencies¹ issued the attached statement to clarify safety-and-soundness expectations and Community Reinvestment Act (CRA) considerations for regulated institutions engaged in residential mortgage lending in light of the Consumer Financial Protection Bureau's (Bureau) Ability-to-Repay and Qualified Mortgage Standards Rule (Ability-to-Repay Rule).²

The statement is intended to guide institutions as they assess the implementation of the Bureau's Ability-to-Repay Rule, which takes effect January 10, 2014. From a safety-and-soundness perspective, the agencies emphasize that an institution may originate both qualified and non-qualified residential mortgage loans (QM and non-QM, respectively), based on its business strategy and risk appetite. The agencies will not subject a residential mortgage loan to

¹ The other federal financial institutions regulatory agencies include the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Office of the Comptroller of the Currency.

² See Ability-to-Repay and Qualified Mortgage Standards Rule under the Truth in Lending Act (Regulation Z), 78 FR 6408 (Jan. 30, 2013), as amended. The Ability-to-Repay Rule requires institutions to make reasonable, good faith determinations that consumers have the ability to repay mortgage loans before extending such loans.

safety-and-soundness criticism solely because of the loan's status as a QM or non-QM loan. Regardless of whether a residential mortgage loan is a QM or non-QM, an institution should address key risk areas in residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, documentation requirements, and portfolio- and risk-management practices.

From a consumer protection perspective, the agencies responsible for conducting CRA evaluations do not anticipate that an institution's decision to originate only QMs, absent other factors, would adversely affect its CRA evaluations. As recently addressed in the *Interagency Statement on Fair Lending Compliance and the Ability-to-Repay and Qualified Mortgage Standards Rule*, the requirements of the Bureau's Ability-to-Repay Rule and the fair lending laws are similarly compatible.³

Questions regarding this letter should be directed to the following individuals:

- Division of Banking Supervision and Regulation: David Emmel, Manager, at (202) 912-4602; or Donald Gabbai, Senior Supervisory Financial Analyst, at (202) 452-3358; or
- Division of Consumer and Community Affairs: Carol Evans, Assistant Director, at (202) 452-2051; or Amy Henderson, Manager, at (202) 452-3140.

In addition, institutions may send questions via the Board's public website.⁴

Michael S. Gibson
Director
Division of Banking Supervision
and Regulation

Sandra F. Braunstein
Director
Division of Consumer
and Community Affairs

Attachment:

- *Interagency Statement on Supervisory Approach for Qualified and Non-Qualified Mortgage Loans*

Cross-reference to:

- CA letter 13-15, "Interagency Statement on Fair Lending Compliance and the Ability-to-Repay and Qualified Mortgage Standards Rule"

³ Refer to CA letter 13-15, "Interagency Statement on Fair Lending Compliance and the Ability-to-Repay and Qualified Mortgage Standards Rule."

⁴ See <http://www.federalreserve.gov/apps/contactus/feedback.aspx>.

**Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
National Credit Union Administration
Office of the Comptroller of the Currency**

December 13, 2013

**Interagency Statement on Supervisory Approach for
Qualified and Non-Qualified Mortgage Loans**

Purpose

The agencies¹ are issuing this statement to clarify safety-and-soundness expectations and Community Reinvestment Act (CRA) considerations for regulated institutions engaged in residential mortgage lending in light of the Consumer Financial Protection Bureau's (Bureau) Ability-to-Repay and Qualified Mortgage Standards Rule (Ability-to-Repay Rule), which was issued January 10, 2013, and is effective January 10, 2014.²

Background

The Bureau's Ability-to-Repay Rule implements Section 129C of the Truth in Lending Act, which requires lenders to make reasonable, good faith determinations that consumers have the ability to repay mortgage loans before extending such loans. The Bureau's Ability-to-Repay Rule provides lenders with a presumption of compliance with the ability-to-repay requirements for loans that meet the regulatory definition of a "qualified mortgage" (QM). In accordance with the Bureau's Ability-to-Repay Rule, a QM may not have certain features, such as negative amortization, interest-only payments, or certain balloon structures, and must meet limits on points and fees and other underwriting requirements.

The Bureau's Ability-to-Repay Rule provides lenders with several ways to satisfy the ability-to-repay requirements, including making loans that do not qualify as QMs, referred to as "non-QM" loans. Please refer to the Bureau's Ability-to-Repay Rule³ for a detailed explanation.

Safety-and-Soundness Expectations

The agencies recognize that many institutions are in the process of assessing how to implement the Bureau's Ability-to-Repay Rule. The agencies emphasize that institutions may originate both QMs and non-QMs, based on their business strategies and risk appetites. Residential mortgage loans will not be subject to safety-and-soundness criticism based solely on their status as QMs or non-QMs.

¹ Board of Governors of the Federal Reserve System (FRS), the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA).

² See Ability-to-Repay and Qualified Mortgage Standards Rule under the Truth in Lending Act (Regulation Z), 78 FR 6408 (Jan. 30, 2013), as amended.

³ Refer to the Bureau's web site at http://files.consumerfinance.gov/f/201309_cfpb_titexiv_updates.pdf.

Regardless of whether residential mortgage loans are QMs or non-QMs, the agencies continue to expect institutions to underwrite residential mortgage loans in a prudent fashion and address key risk areas in their residential mortgage lending, including loan terms, borrower qualification standards, loan-to-value limits, and documentation requirements. Institutions also should apply appropriate portfolio and risk management practices. Institutions should continue to comply with the applicable guidance on residential mortgage lending issued by their respective federal regulators.

The Community Reinvestment Act and Fair Lending

The agencies recognize that some institutions may originate only or predominantly QMs, particularly when the Bureau's Ability-to-Repay Rule first takes effect. In fact, the agencies note that some institutions' existing business models are such that all of the loans they originate satisfy the requirements for QMs.

As recently addressed in the *Interagency Statement on Fair Lending Compliance and the Ability-to-Repay and Qualified Mortgage Standards Rule* issued on October 22, 2013,⁴ the requirements of the Bureau's Ability-to-Repay Rule and the fair lending laws are compatible. Similarly, the requirements of the Bureau's Ability-to-Repay Rule and CRA are compatible. Accordingly, the agencies that conduct CRA evaluations⁵ do not anticipate that institutions' decision to originate only QMs, absent other factors, would adversely affect their CRA evaluations.

As required by the CRA, the agencies assess institutions' performance in helping to meet the credit needs of their communities, including low- and moderate-income neighborhoods, consistent with safe-and-sound operations. Each evaluation takes into account the unique performance context of the institution.

⁴ FDIC: See <http://www.fdic.gov/news/news/press/2013/pr13091a.html>;
FRS: See <http://www.federalreserve.gov/newsevents/press/bcreg/20131022a.htm>;
NCUA: See <http://www.ncua.gov/News/Pages/NW20131022Interagency.aspx>; and
OCC: See <http://www.occ.gov/news-issuances/news-releases/2013/nr-ia-2013-164.html>.

⁵ The federal financial agencies with supervisory authority for CRA are the FRS, the OCC, and the FDIC.