

## TCH Statement on Qualified Mortgages July 27, 2012

Dodd-Frank's ability-to-repay requirements were intended to ensure that creditworthy borrowers have broad access to safe and affordable mortgage credit. To that end, Congress created the qualified mortgage (QM) classification for safe and traditional fully amortizing loans.

If Congress's goals are to be achieved, the CFPB must issue rules that provide certainty at the closing table that the QM and ability-to-repay standards are met. Ambiguous rules will cause lenders and investors to operate within very conservative constraints to avoid the liability and reputational risks associated with ability-to-repay claims.

For these reasons The Clearing House Association (TCH)<sup>1</sup> supports an objective definition of QM.<sup>2</sup> Such a definition should include a maximum debt-to-income ratio that can be exceeded if clear compensating factors are present. TCH urges the CFPB to clearly articulate in the final regulation a legal standard that can provide confidence to the market, lenders and borrowers at the time the loan is made that it is a QM *and* that it meets the ability-to-repay requirements, as outlined in the consensus recommendations made to the CFPB in March 2012.<sup>3</sup> Only with a standard of certainty like that described in the March 2012 proposal will the housing market be restored to its full health and stability, to the benefit of consumers and lenders alike.

TCH has also previously stated that clear and objective standards for QM, coupled with a legal safe harbor, would provide that certainty for market participants. However, TCH's priority has been and remains the issuance of clear and objective standards to ensure that the vast majority of borrowers have access to safe and affordable loans at reasonable cost, whether the QM regulation adopts a safe harbor or a rebuttable presumption that gives the burden of proof to a person challenging the fulfillment of the ability-to-repay test.

---

<sup>1</sup> Established in 1853, The Clearing House is the oldest banking association and payments company in the United States. It is owned by the world's largest commercial banks, which collectively employ over 2 million people and hold more than half of all U.S. deposits. The Clearing House Association L.L.C. is a nonpartisan advocacy organization representing—through regulatory comment letters, amicus briefs and white papers—the interests of its owner banks on a variety of systemically important banking issues. See [www.theclearinghouse.org](http://www.theclearinghouse.org).

<sup>2</sup> See TCH Comment Letter to CFPB dated July 9, 2012, *available at* <http://www.theclearinghouse.org/index.html?f=074090>; see also TCH submission to the CFPB on "Defining a 'Qualified Mortgage': Challenges and Opportunities" dated December 7, 2011, *available at* <http://www.theclearinghouse.org/index.html?f=073274>.

<sup>3</sup> See joint discussion draft submitted to the CFPB on March 7, 2012, *available at* <http://www.theclearinghouse.org/index.html?f=073713>.