1209 North Calvert Street Baltimore, MD 21202 410.624.8980 www.marylandconsumers.org

Media contact: Franz Schneiderman: 410.624.8981

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Proposed QM Lending Rules Protect Banks at the Expense of Working Families

MCRC Statement on Mortgage Policy at Consumer Financial Protection Bureau Field Hearing

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My name is Marceline White and I'm the Executive Director of the Maryland Consumer Rights Coalition (MCRC). MCRC advances fairness and justice for Maryland consumers through research, education, and advocacy.

MCRC has been involved in affordable housing and homeownership issues since 2006, when we authored a report warning of the dangers of subprime and predatory lending that we saw taking place in Maryland. More recently, I've had the privilege to serve on the Governor's Foreclosure Task Force and to advocate for stronger foreclosure mediation procedures in Maryland.

Homeownership provides a vital avenue for many families to build wealth. Low- and moderate-income families often use their home equity to increase their assets and borrow against to support human capital investments in their families such as higher education. This is particularly true in communities of color.

MCRC has held meetings with regional leaders of Wells Fargo and Bank of America to urge them to provide meaningful principal-reduction loan modifications to working families in Maryland to ensure families can remain in their homes and build their wealth. To date, we have been profoundly disappointed with the results.

Under the national mortgage settlement signed last February, 60% of the relief banks must offer must be in the form of loan modifications. Yet after analyzing the national settlement, MCRC has been dismayed to discover that 3.5 times as many Marylanders helped under the settlement so far have lost their homes to short sales (35 percent) as have won principal reductions on first-lien mortgages (10 percent), and that short sales account for about 48 percent of the total value of relief in Maryland (and principal reductions only 15 percent).

The work the CFPB has done to increase access to credit and provide clear and transparent definitions of mortgages is critically important work. We commend them for their efforts. However, it is imperative that CFPB's mortgage lending rules adequately balance the needs of financial institutions and consumers when considering the scope of the Qualified Mortgage Rule. As drafted, the rule does far too much to protect banks at the expense of working families.

MCRC's concerns are as follow:

- •Inclusion of a "blanket safe harbor" in the Qualified Mortgage (QM) rule will provide a legal shield for financial institutions that absolves them of most liability. Under the definition of a qualified mortgage in the CFPB's proposed rules, most loans will be considered QMs and shielded from lawsuits. Such a "safe harbor" provision serves only to protect financial servicers while casting homeowners out to sea.
- •This proposed QM rule seems to assume that financial institutions have engaged in sound underwriting despite clear evidence to the contrary over the past ten years. Moreover, this blanket immunity for banks provides incentives and rewards to banks for simply using sound underwriting policies -- something that they should have been doing all along anyway.
- •Similarly, the use of 43% debt-to-income ratio would penalize low- and moderate-income Marylanders who would like to purchase a home because debt-to-income ratios are often higher among poorer families. MCRC urges the CFPB to study this issue more carefully.

Later this month, the CFPB will release new rules about mortgage servicing. MCRC would like to see the new rules do the following:

- •CFPB servicing rules should end dual-tracking -- the process of pursuing a foreclosure while a homeowner is seeking a loan modification.
- •CFPB's mortgage lending rules should require that when a homeowner's loan modification receives a positive Net Present Value (NPV) test, the servicer and lender should be required to modify the loan. This proposal does not do so.
- •Consumers should be able to retain a private right of action to seek redress for abusive loan practices.
- •Homeowners who received a wrongful mortgage modification denial should have the opportunity to have their loan reviewed again and receive a loan modification if appropriate.

MCRC urges the CFPB to delay implementation of the proposed rules for further study, remove the safe harbor for banks, and end-the practice of dual-tracking.