Heartland
Credit Union Association

July 31, 2017

Ms. Monica Jackson Office of the Executive Secretary
Consumer Financial Protection Bureau
1700 G Street
NW Washington, DC 20552

Re: Request for Information Regarding Assessment of Ability-to-Repay/Qualified Mortgage Rule; Docket No. CFPB–2017–0014

Dear Ms. Jackson:

On behalf of the 2.2 million credit union members we represent, the Heartland Credit Union Association (HCUA) appreciates the opportunity to comment on the Consumer Financial Protection Bureau's (CFPB or Bureau) planned assessment of the Ability-to-Repay/Qualified Mortgage Rule (ATR/QM Rule) under the Truth in Lending Act's (TILA) Regulation Z.

The ATR/QM Rule prohibits a creditor from making a mortgage loan unless the creditor makes a reasonable and good faith determination, based on verified and documented information, that the consumer will have a reasonable ability to repay the loan. The ATR/QM Rule describes certain minimum requirements for creditors making ability-to-repay determinations, but does not dictate that they follow particular underwriting standards. At a minimum, creditors generally must consider a number of established underwriting factors. The ATR/QM Rule also provides for a class of "qualified mortgage" (QM) loans, for which compliance with the ATR requirement is presumed.

There are several categories of QM loans, including a category of QMs that provides more flexible underwriting standards for small creditor portfolio loans, as well as a category that allows small creditors that operate in rural or underserved areas to make balloon-payment portfolio loans that are QMs.

HCUA continues to support the concept of ensuring a borrower can repay a loan prior to commitment by the member. However, we have concerns that the ATR/QM Rule, in its current form, makes it unnecessarily difficult for credit unions to provide certain consumer-friendly products to credit union members.

While borrowers should have appropriate disclosures when buying a home, we believe the ATR/QM underwriting requirements, together with the sweeping substantive changes made by TILA and the Real Estate Settlement Procedures Act (RESPA) Integrated Disclosure (TRID) rules, increase the regulatory burden on credit unions and create arbitrary barriers to homeownership. The CFPB should recognize credit unions are not predatory lenders but good faith partners for their members seeking to buy a home, and should modify the ATR/QM Rule as appropriate.

The CFPB should allow all loans held in portfolio by a credit union to be exempt from burdensome ATR underwriting requirements, or alternatively be designated as QM loans receiving a safe harbor. Holding loans in portfolio requires the credit union to absorb the risk of the loan, allowing these loans to be self-regulating. It is good public policy to provide credit union portfolio loans an exemption from the ATR requirements or the automatic designation of QM to ease compliance burden and ensure credit unions continue to lend in this market.

HCUA recommends that the CFPB remove the 2021 sunset for QM loans that are eligible for sale to the Government-Sponsored Enterprises (GSEs) to prevent market disruptions. The current exemption allows lenders to exceed the general requirement that QM loans have a debt-to-income ratio of 43%, an onerous standard. The exemption for GSEs assists in maintaining a functioning mortgage market. Therefore, we urge the Bureau to make the exemption permanent.

Furthermore, the CFPB should provide a definition for "residual income" in the TILA Regulation Z ATR requirements. The lack of a clear definition forces significant documentation requirements and creates unnecessary litigation and liability risk. This risk adversely affects consumers with less than meticulous credit records.

Also, regarding the cure provision that is scheduled to sunset in January 2021, we believe it helps lenders provide access to credit to consumers seeking loans that are at or near the points and fees limit. Therefore, we ask the CFPB to make the provision permanent.

As always, we appreciate the opportunity to review this issue. We will be happy to respond to any questions regarding these comments.

Sincerely,

Bradley D. Douglas

Brad Douglas
President/CEO