Testimony of Michael D. Calhoun

President,

Center for Responsible Lending

Before the U.S. House Committee on Financial Services'

Subcommittee on Financial Institutions and Consumer Credit

The State of Bank Lending in America

March 28, 2017

Good afternoon Chairman Luetkemeyer, Ranking Member Clay, and Members of the House Committee on Financial Services' Subcommittee on Financial Institutions and Consumer Credit. Thank you for allowing me to testify about the current state of bank lending and the need to ensure that all financial institutions are subjected to responsible, reasonable regulatory oversight that maintains sensible consumer protections.

I am the President of the Center for Responsible Lending (CRL), a nonprofit, non-partisan research and policy organization dedicated to protecting homeownership and family wealth by working to eliminate abusive financial practices. CRL is an affiliate of Self-Help, a nonprofit community development financial institution. For thirty years, Self-Help has focused on creating asset building opportunities for low-income, rural, women-headed, and minority families. In total, Self-Help has provided over $6 billion in financing to 70,000 homebuyers, small businesses, and nonprofits and currently serves more than 80,000 mostly low and moderate income families through 30 retail credit union branches in North Carolina, California, and Illinois. Prior to my leadership of CRL, I headed several of Self-Help's lending divisions, and I also served as General Counsel of Self-Help for more than 10 years.

This important hearing addresses the health of our banks, which provide essential services to consumers and the overall economy. Fortunately, today consumer lending is strong, and bank profitability is at record levels. We are emerging from the shadow of the Great Recession of 2008, including the process of implementing essential protections that ensure such a financial crisis is not repeated, and that consumer financial markets are strong and competitive. In setting and implementing these protections, regulators have utilized a two-tier approach, with numerous measures to lessen compliance costs for smaller institutions. This approach should be continued and expanded. In addition, there are reforms that have broad support that would

benefit all banks, without harming consumers. These should be implemented immediately. However, dismantling essential reforms, such as the mortgage ability to repay standard, or reducing the effectiveness of the Consumer Financial Protection Bureau (CFPB) would harm consumers, banks and the overall economy.

I. History shows that responsible regulations are necessary for a healthy national market and economy.

Recent history has already shown us the consequences of the absence of basic protections and oversight in the financial market. In the years leading up to the financial crisis, mortgage lenders were drawn into competition to offer mortgages with the lowest monthly payment and the least amount of underwriting. Lenders first started offering mortgages that had lower payments that never reduced the principal balance of the loan. This was then surpassed by loans that had "teaser rates" where the monthly payments were even lower for the first several years, but then increased dramatically. Finally, lenders pushed loans that had startling low payments, a few thousand dollars a month for a half million-dollar loan, but the loan balance then *increased* by more than five percent every year. At the same time, lenders competed by reducing underwriting requirements, streamlining the underwriting, and pushing no documentation or "no-doc" loans without any verification of income. It was very difficult for responsible lenders to compete in this environment, and in order to maintain their businesses and some market share, they were forced to join this race to the bottom.

The result is all too well known. In the wake of the financial crisis, 7.8 million American consumers lost their homes through foreclosure.[1] The failure to have a responsible regulatory environment also resulted in taxpayers paying $7 trillion to bail out financial institutions through

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[1] CORELOGIC, CORELOGIC REPORTS, UNITED STATES RESIDENTIAL FORECLOSURE CRISIS, TEN YEARS LATER 3, *available at* http://www.corelogic.com/research/foreclosure-report/national-foreclosure-report-10-year.pdf.

loans and according to some reports, an additional $22 trillion through the federal government's purchase of assets.[2] According to the Federal Deposit Insurance Corporation (FDIC), more than 500 banks shuttered their doors and most of those institutions were community banks.[3] In addition, the national economy was undermined and plunged into a severe recession. People lost their jobs, small businesses went under, and many Americans—from small entrepreneurs to families—struggled to make ends meet while being unable to obtain the credit and capital they needed from financial institutions to sustain their position or expand their asset base.

These dynamics and consequences are why the protections of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank)[4] are needed to protect consumers, small businesses, taxpayers, and the nation's economy. All financial institutions, including community banks and credit unions, benefit from the underlying purposes of financial regulation: protecting consumers, ensuring the safety and soundness of institutions, protecting community financial institutions from unfair competition, and defending the nation's financial market from systemic risk.

II. <u>Financial regulations are not slowing economic growth or preventing lending.</u>

Financial institutions, including small banks, continue to recover from the worst financial downturn since the Great Depression. Mortgage lending in particular continues to steadily improve. Small banks are playing an important and growing role in the recovery.

Contrary to theories that the Dodd-Frank Act has stifled growth, the financial sector has had record profits. In 2016 U.S. financial institutions had total annual profits of $171.3 billion, the

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[2] John Carney, The Size of the Bank Bailout: $29 Trillion, *CNBC*, (December 14, 2011), *available at* http://www.cnbc.com/id/45674390#.
[3] FEDERAL DEPOSIT INSURANCE CORPORATION, FAILED BANK LIST, *available at* https://www.fdic.gov/bank/individual/failed/ banklist.html.
[4] Public Law 111-203 (2010).

highest level since 2013.[5] While this profit level is slightly lower than the profit level in the peak of the false housing boom in the years immediately prior to the financial crisis (2004-2006), it remains higher than inflation-adjusted financial sector profits for any other time period since World War II.

Community bank profitability has also rebounded strongly and meets pre-recession levels. In 2010, less than 78 percent of community banks were profitable. By the end of 2015, over 95 percent of community banks were profitable.[6] The most recent FDIC report from the 2016 third quarter notes that the percentage of unprofitable community banks sunk to 4.6 percent, which is the "lowest percentage since the third quarter of 1997."[7] Full year earnings were up 9.7 percent in 2015, which is a higher figure than the overall increase of 7.5 percent for all banks.[8]

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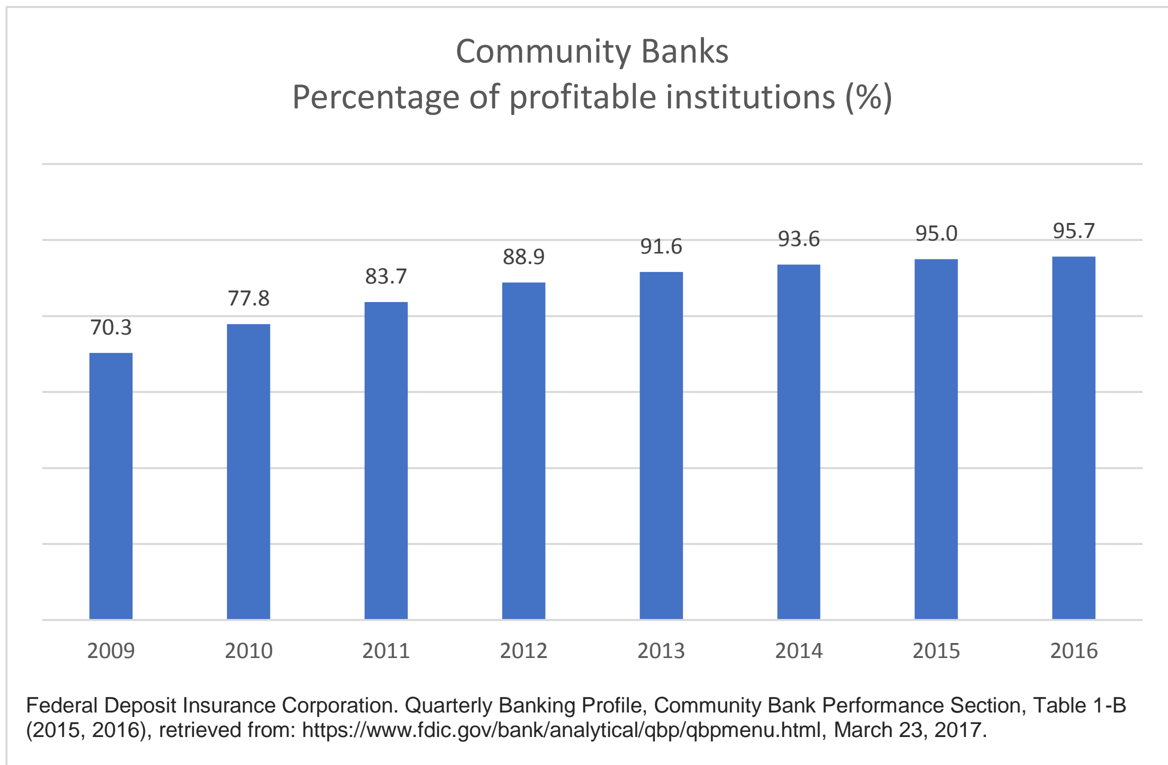
[5] Wall Street Journal, U.S. Banking Industry Annual Profit Hit Record in 2016 (Feb 28, 2017), *available at*: https://www.wsj.com/articles/u-s-banking-industry-annual-profit-hit-record-in-2016-1488295836.
[6] FEDERAL DEPOSIT INSURANCE CORPORATION, CORE PROFITABILITY OF COMMUNITY BANKS 1985-2015 1 (2016), *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/article1.pdf.
[7] FEDERAL DEPOSIT INSURANCE CORPORATION, QUARTERLY BANKING PROFILE: THIRD QUARTER 2016 I, *available at* https://www.fdic.gov/bank/analytical/quarterly/2016_vol10_4/fdic_v10n4_3q16_quarterly.pdf.
[8] Id.



Federal Deposit Insurance Corporation. Quarterly Banking Profile, Community Bank Performance Section, Table 1-B (2015, 2016), retrieved from: https://www.fdic.gov/bank/analytical/qbp/qbpmenu.html, March 23, 2017.

Credit unions have also continued to grow while recovering from the financial crisis. Credit union membership has been steadily growing in recent years. In 2016, credit unions added 4.7 million new members, which amounted to "the biggest annual increase in credit union history and four times the pace set a decade earlier."[9] Operating costs for credit unions have also fallen in the period since Dodd-Frank was passed and were down to 3.1 percent in 2016 from a high of 3.59 percent in 2008.[10]

While the number of small lenders, including community banks and credit unions has decreased over the years, this cannot be reasonably attributed to Dodd-Frank or CFPB regulations. The number of community banks has declined every single year since 1984.[11] FDIC

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[9] CUNA MUTUAL GROUP, CREDIT UNION TRENDS REPORT (2017), *available at* https://www.cunamutual.com/resource-library/publications/credit-union-trends-report.

[10] NATIONAL CREDIT UNION ADMINISTRATION, NCUA CHART PACK (2016), *available at* https://www.ncua.gov/analysis/Pages/industry/fact-sheets.aspx.

[11] FEDERAL DEPOSIT INSURANCE CORPORATION, COMMUNITY BANKING STUDY 1 (2012), *available at* https://www.fdic.gov/regulations/resources/cbi/report/cbi-full.pdf.

research concludes that community bank profitability since 2008 has overwhelmingly been driven by macroeconomic conditions, not regulations.[12] The FDIC study first takes a wide look at regulations that include Dodd-Frank, but also Basel III capital standards. The study states that "regulation is just one among many noneconomic factors that may contribute to structural change in community bank profitability," but conclude that 80 percent of variation in profitability is due to macroeconomic factors, and the other 20 percent includes not just changing regulations, but also "the rise of nonbank lending, competition from larger banks, and changes in loan portfolios and other business practices."[13]

Smaller lenders play an important role in extending access to credit, and it is noteworthy that lending has also rebounded from the depths of the crisis. After falling from June 2008 to November 2010, outstanding consumer loans have steadily increased at $3.7 trillion in December 2016, which well exceeds pre-crisis levels.[14] Small banks have posted increases in commercial lending in all but one quarter compared to levels at the time of passage of Dodd-Frank in 2010.[15] Furthermore, the FDIC's quarterly community bank performance data for the fourth quarter of 2016 shows that community banks hold 43 percent of all small loans to businesses and that they increased lending by $6.4 Billion (2.2 percent) compared to 2015, twice the rate of other banks.[16]

Finally, mortgage lending has also steadily recovered since the crisis. Community banks and small lenders play an important and growing role in the mortgage market in particular. In

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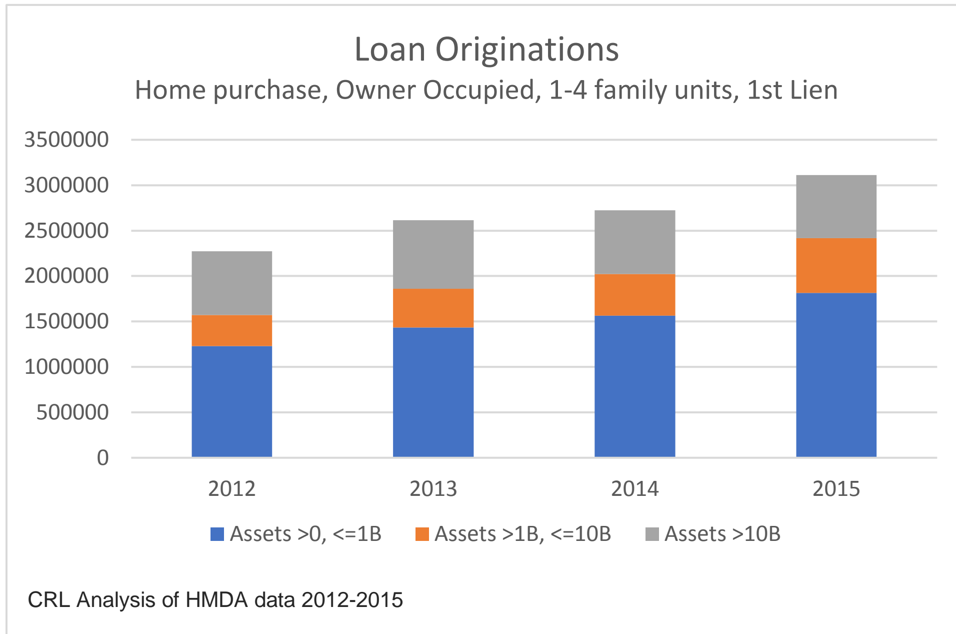
[12] FDIC, Core Profitability of Community Banks *supra* note 6.
[13] Id at 42.
[14] FEDERAL RESERVE, TOTAL CONSUMER CREDIT OWNED AND SECURITIZED, OUTSTANDING *available at* https://fred.stlouisfed.org/series/TOTALSL.
[15] FEDERAL RESERVE, TOTAL VALUE OF LOANS FOR ALL COMMERCIAL AND INDUSTRY LOANS, SMALL DOMESTIC BANKS *available at* https://fred.stlouisfed.org.
[16] FEDERAL DEPOSIT INSURANCE CORPORATION, QUARTERLY BANKING PROFILE, COMMUNITY BANK PERFORMANCE, FOURTH QUARTER (2016), *available at* https://www.fdic.gov/bank/analytical/qbp/2016dec/qbpcb.html.

2015, mortgage lenders originated 850,085 more loans[17] than they did in 2012, a 37 percent increase. Loans originated by smaller lenders with assets under $1 billion saw the biggest increase during this period (48 percent) while the largest institutions with assets over $10 billion saw a 1 percent decline. Credit unions alone originated $41.7 billion in first-lien mortgage loans in the third quarter of 2016, an increase of 22 percent over the same period in the previous year.[18]



Small lenders also saw their market share in mortgage lending increase over this time period. The market share of the smallest lenders with assets under $1 billion increased from 54 percent in 2012 to 58 percent in 2015. In contrast, the market share of the largest lenders with assets over $10 billion, decreased from 31 percent in 2012 to 22 percent in 2015.[19]

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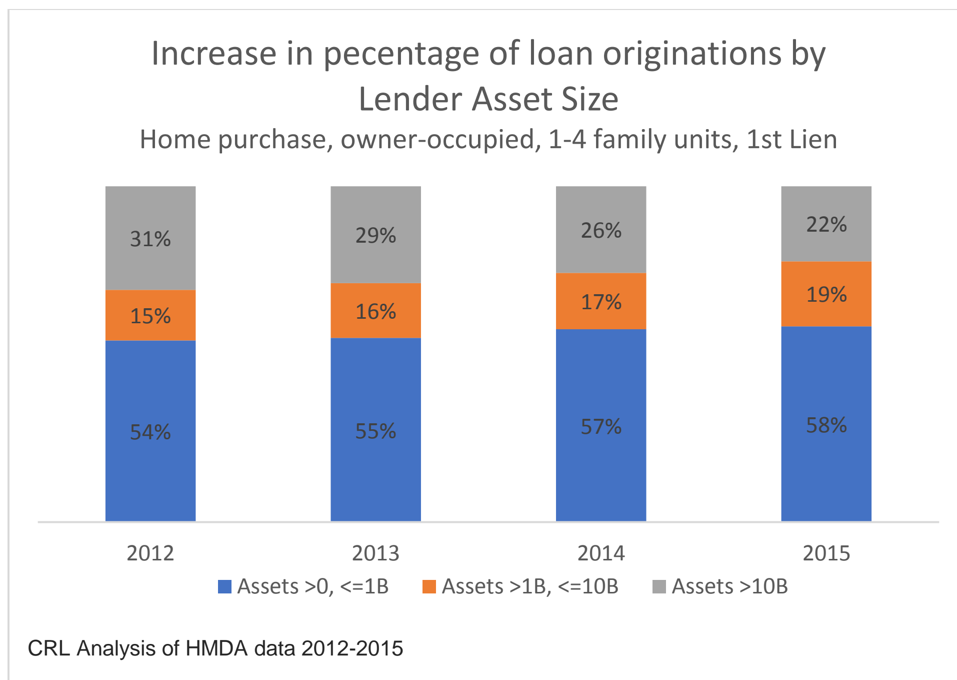
[17] Sarah Wolff, CRL Analysis of HMDA Data 2012-2015. Loan analysis limited to: home purchase, owner-occupied, 1-4 family units, 1st lien loans, *available at* http://www.responsiblelending.org/media/new-hmda-data-shows-mortgage-market-continues-exclude-consumers-color-and-low-wealth-families.
[18] CUNA MUTUAL GROUP, CREDIT UNION TRENDS REPORT (2016), *available at* https://www.cunamutual.com/resource-library/publications/credit-union-trends-report.
[19] CRL Analysis *supra* note 17.



III. **Consumer protections put in place by Dodd-Frank, such as the Qualified Mortgage rule have strengthened the housing market.**

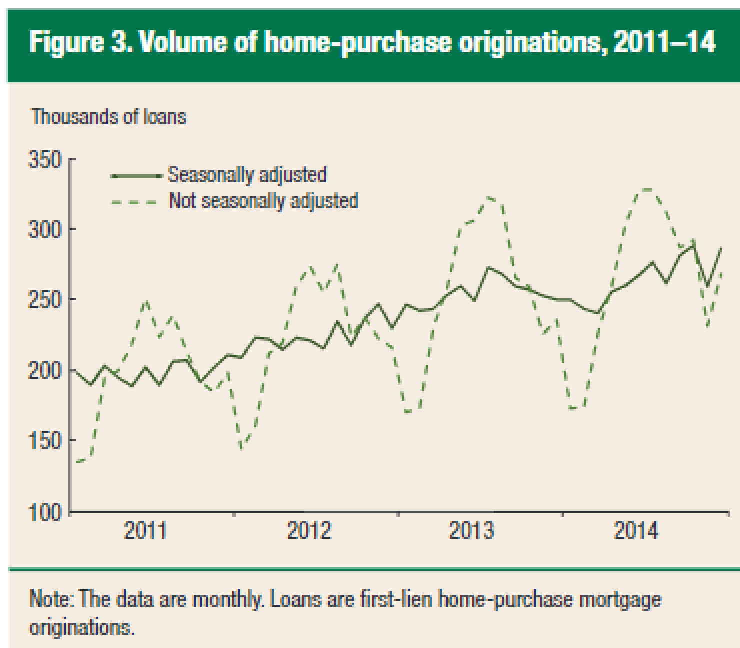
The CFPB's Qualified Mortgage (QM) rule and the Ability-to-Repay standard set out common sense standards to protect the market and consumers from high-risk, unsustainable loans by ensuring borrowers have an ability to repay the loans they receive. Irresponsible mortgage lending that ignored borrowers' ability to repay their loans resulted in a foreclosure tsunami that disproportionately impacted communities of color—eviscerating a generation of wealth building. Further, Wall Street's appetite for risky mortgages encouraged this lax underwriting, and regulatory inaction failed to address the problem. As a result, unaffordable loans toppled the entire market and nearly destroyed the economy.[20]

The reforms of Dodd-Frank, including QM and Ability-to-Repay, have not hurt mortgage lending or access to credit. Instead, these reforms support sustainable homeownership and wealth

[20] Testimony of Eric Stein, Center for Responsible Lending, before the US Senate Committee on Banking, Housing, and Urban Affairs, "Turmoil in the US Credit Markets: The Genesis of the Current Economic Crisis," (October 16, 2008) *available at* http://www.banking.senate.gov/public/_cache/files/03d72248-b676-4983-bd3e-0ffec936b509/33A699FF535D59925B69836A6E068FD0.steintestimony101608final.pdf.

building opportunities for lower-wealth households. The QM rule is designed to facilitate the flow of mortgage credit, as lenders will have the confidence in knowing the suitability of loans for borrowers at the time of origination. The same standards in turn reduce the overall likelihood of borrower default. This certainty has benefitted consumers, lenders, and investors alike, leading to a more sustained housing recovery.

Three years have passed since the QM rule was implemented. Reports, including the Home Mortgage Disclosure Act (HMDA) report, show that QM has not negatively impacted mortgage lending or access to credit. In fact, (post QM) HMDA data is very much consistent with market trends immediately preceding the implementation of the QM rule and Ability-to-Repay standard. The Federal Reserve's seasonally adjusted origination numbers, in the chart below, show a slow overall increase in monthly originations from 2011 through 2015 with no discernable decrease when the rules were fully implemented in January 2014. [21]



[21] FEDERAL RESERVE BULLETIN, THE 2014 HOME MORTGAGE DISCLOSURE ACT DATA (2015), *available at* https://www.federalreserve.gov/pubs/bulletin/2015/pdf/2014_HMDA.pdf.

In addition, HMDA data from 2014-15 shows a modest but steady increase in mortgage lending to low and moderate-income borrowers and African-American and Latino borrowers.[22]

Researchers have looked carefully at mortgage lending after the implementation of QM and found no link to a reduction in credit. For example, researchers at the Urban Institute looked at loans that might reasonably have been affected by the QM standards (interest only or prepayment penalty loans, loans with debt-to-income "DTI" over 43 percent, or adjustable rate mortgages or "ARM" loans) and found no decline in these categories associated with QM.[23] Researchers at the Federal Reserve similarly concluded "The HMDA data provide little indication that the new ATR and QM rules significantly curtailed mortgage credit availability."[24] Researchers at the Federal Reserve also looked at both the origination and securitization of mortgages post-crisis and find that lender asset size has become a less important factor in explaining this lending activity and conclude "smaller banks have not been, on net, deterred from engaging in the sales and securitizations of mortgages, have become a more important part of the market and have profited from their activities."[25]

The Urban Institute likewise found that QM rules had not adversely affected access to credit. While mortgage originations can and should expand, the Urban Institute attributes continued access problems to overcorrections in the post-crises market that has resulted in constrained

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[22] FEDERAL RESERVE BULLETIN, THE 2015 HOME MORTGAGE DISCLOSURE ACT DATA (2016), *available at* https://www.federalreserve.gov/pubs/bulletin/2016/pdf/2015_HMDA.pdf., see also note 21.

[23] Bing Bai, Laurie Goodman, and Ellen Seidman, Has the QM Rule Made It Harder to Get a Mortgage? (2016), *available at* http://www.urban.org/research/publication/has-qm-rule-made-it-harder-get-mortgage.

[24] FEDERAL RESERVE BULLETIN, THE 2014 HOME MORTGAGE DISCLOSURE ACT DATA, *available at* https://www.federalreserve.gov/pubs/bulletin/2015/pdf/2014_HMDA.pdf.

[25] William F. Basset and John C. Driscoll, Post Crisis Residential Mortgage Lending by Community Banks (2015), *available at* https://www.communitybanking.org/documents/Session3_Paper4_Bassett.pdf.

lending. This environment is most harmful to lower-wealth households with lower FICO scores and fewer resources for a down payment[26]

IV. Large lender portfolio exemptions to the QM rule are unnecessary, do not help small lenders, and are dangerous for the economy.

Some have suggested that expanding QM to include all loans held in portfolio by lenders of any size, would increase lending. However, this would be dangerous for consumers and the market, and unlikely to meaningfully expand lending.

As demonstrated in the housing crisis, holding loans in portfolio alone will not protect borrowers, taxpayers, and the market from the mistakes of the past. In the lead up to the financial crisis, many of the toxic loans, such as negative amortization loans, and "ARMs" underwritten to initial "teaser" rates were held in bank portfolios. Lenders underwrote these loans based upon only this initial, artificially low payment, even though dramatically higher payments commenced after a few years. Many lenders did not document the income of the borrowers, instead making "no-doc" loans. Hundreds of billions of dollars of these loans were made, and many were kept on bank portfolios. These portfolio loans soon crashed, helping to trigger the financial crisis, and devastating banks such as Washington Mutual and Wachovia.[27]

Portfolio loans can still be risky for consumers and taxpayers, and automatic QM status for loans held in portfolio should not be extended to larger institutions. Many homeowners have very substantial equity in their homes and a significant number of those have no current home debt. Current information shows that the average loan-to-value for GSE loans is roughly 74

[26] Jim Parrot and Mark Zandi, Opening up the Credit Box 5 (2013), available at http://www.urban.org/UploadedPDF/412910-Opening-the-Credit-Box.pdf., see also LAURIE GOODMAN ET AL., TIGHT CREDIT STANDARDS PREVENTED 5.2 MILLION MORTGAGES BETWEEN 2009 AND 2014, *available at* http://www.urban.org/urban-wire/tight-credit-standards-prevented-52-million-mortgages-between-2009-and-2014.
[27] Ben White and Eric Dash, Wachovia, Looking for Help, Turns to Citigroup, New York Times (September 26, 2008), *available at* http://www.nytimes.com/2008/09/27/business/27bank.html?_r=0.

percent with many loans having much lower levels.[28] With these loans, the borrower's equity absorbs the risk of loss rather than the lender. Therefore, the lender is protected even from very risky loan terms. Furthermore, lenders are also already making and holding loans in portfolio. Portfolio loans accounted for 30.9 percent of all originations in 2016, approximating the pre-crisis share of originations for portfolio loans.[29] Expanding QM to all portfolio loans is unlikely to lead to an increase in volume.

This would be a particularly dangerous time to reduce the Ability-to-Repay/QM mortgage protections. As the economy moves through the business cycle and the recovery improves, the important protections recently put in place will provide new value. Real and nominal house prices now exceed pre-crisis trends and at the same time interest rates are expected to rise. As shown in the chart below, the home market is cyclical with home values rising and falling when measured in real inflation adjusted dollars. There were in fact several substantial price run ups in home values and declines prior to the Great Recession. The difference was that in these prior run ups, the bubble was limited because mortgage payments were not artificially reduced by poor mortgage products without borrower ability to repay. This enabled the market to rebalance without a crash. In contrast in the early 2000's housing prices rose rather than being rebalanced. These unsustainable mortgages further artificially inflated home prices and created a housing bubble of unprecedented height and fall.

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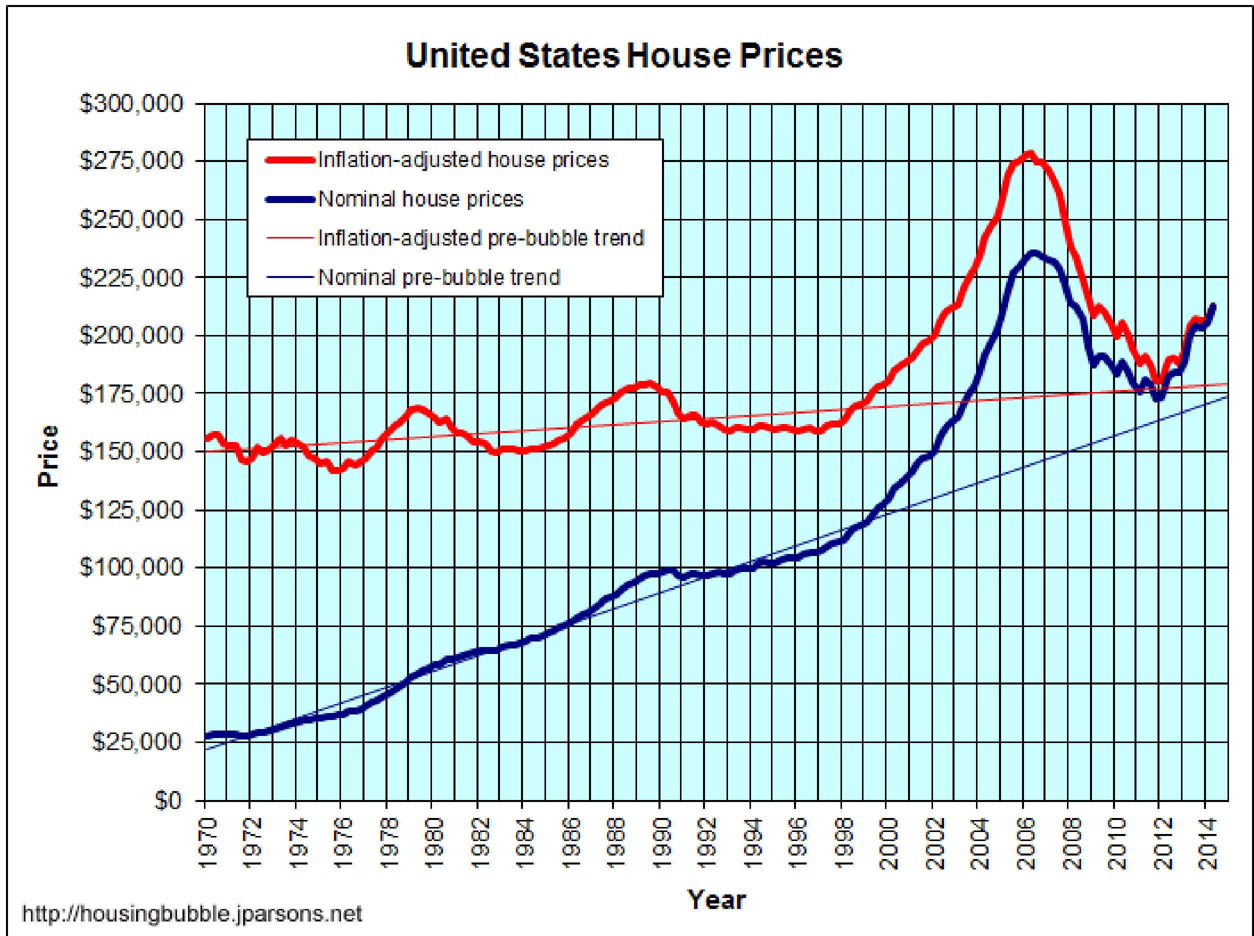
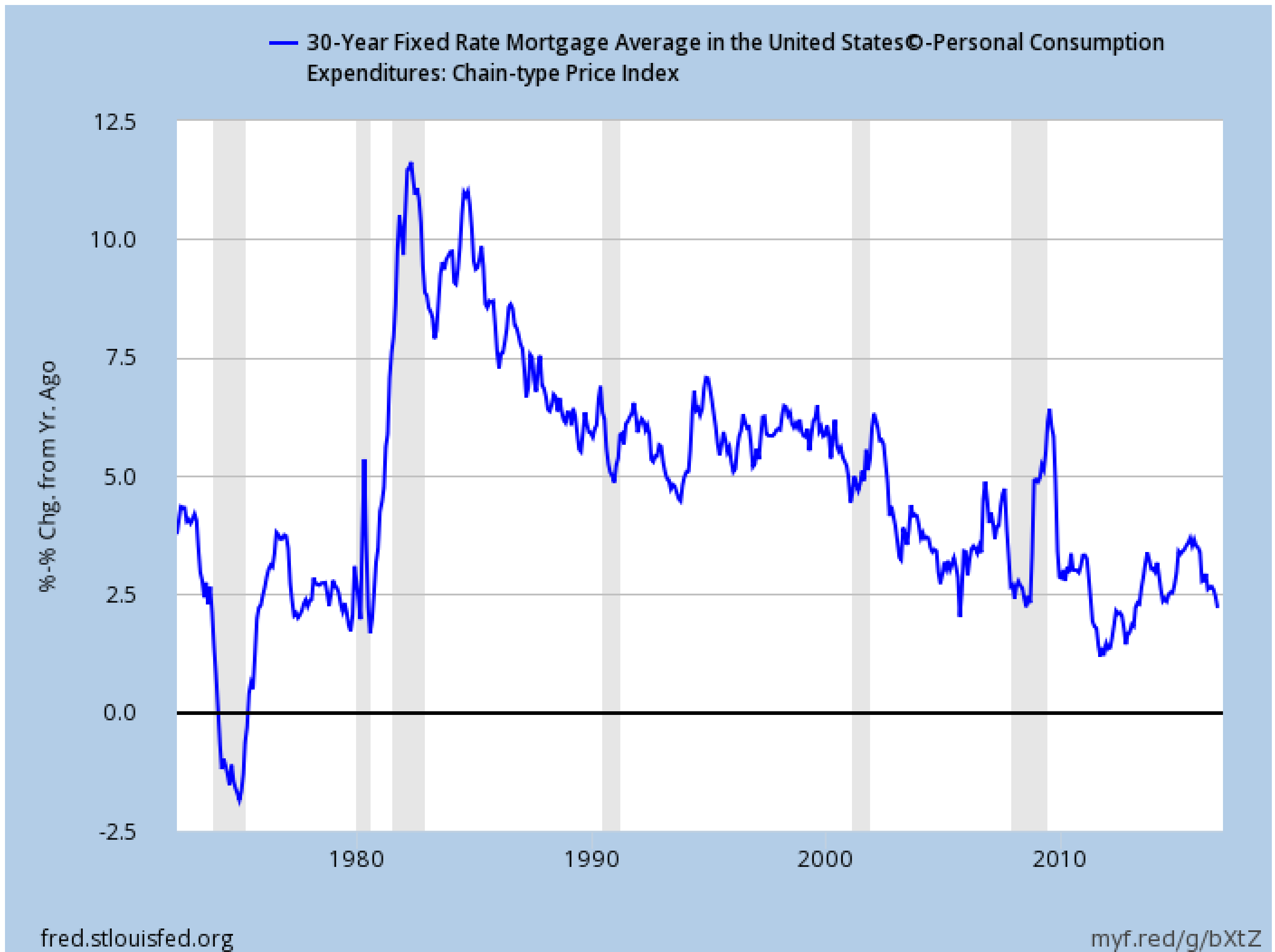
[28] FANNIE MAE 2016 CREDIT SUPPLEMENT 6 (2017), *available at* http://www.fanniemae.com/resources/file/ir/pdf/quarterly-annual-results/2016/q42016_credit_summary.pdf.

[29] LAURIE GOODMAN ET AL. HOUSING FINANCE AT A GLANCE: A MONTHLY CHARTBOOK, MARCH 2017 (2017), *available at* http://www.urban.org/research/publication/housing-finance-glance-monthly-chartbook-march-2017/view/full_report.



In the coming years, the monetary market will create pressures for the reintroduction of these unaffordable mortgages. As the following chart shows, we are coming to the end of a decades-long period of declining interest rates, culminating in the current market where there is a negative real interest rate and historically low mortgage rates. A consensus of experts agree that mortgage, and other interest rates will increase in coming years. This will create pressure for lenders to bring back the exotic unaffordable mortgages of the recent past to again artificially reduce monthly mortgage payments. Undercutting the standard that borrowers should have the

ability to repay loans, especially substantial loans made by federally insured institutions would invite a repeat of the recent financial crisis at the cost to the American taxpayer.



Provisions that grant out right legal immunity are extreme and put consumers at great risk. Granting QM status to portfolio loans held by larger financial actors will allow some to use relaxed standards to harm consumers and strip consumer equity, all while being insulated by QM's legal protections.

V. <u>The CFPB is doing its job and must continue its work.</u>

The CFPB has recovered nearly $12 billion for 29 million consumers who have been harmed by illegal practices of credit card companies, banks, debt collectors, mortgage companies, and others. This relief includes monetary compensation to harmed consumers, principal reductions, canceled debts, and other remedies to address these practices. The CFPB has worked hard to end predatory practices by institutions like ITT Tech (a for-profit college that misled borrowers into high-cost private student loans), Wells Fargo, and car-title and payday lenders.

Under the leadership of Director Cordray, the CFPB has issued and proposed rules that make the market safer for consumers and the general economy. In addition to the mortgage rule and standards addressed above, the CFPB has issued a rule to make prepaid cards safer and fairer for consumers who rely on them. The Consumer Bureau has also undertaken enforcement actions that benefit consumers by either shielding them from harm or compensating them for wrong done by illegal financial practices. The Bureau has simplified bank disclosures borrowers receive when taking out a loan, protected military families against illegal foreclosures and abusive student and payday loans, and has guarded seniors from predatory scams. Further, the Bureau has obtained more than a billion dollars in compensation to consumers harmed by misleading credit card add-on products from big banks, and to consumers harmed by the recently uncovered egregious fraudulent acts of Wells Fargo in opening checking accounts without customers' approval. Finally, the CFPB has also provided $160 million in settlements to

consumers harmed by discriminatory auto interest rate mark ups where borrowers ended up with higher-cost auto loans when they qualified for more affordable loans. The Consumer Bureau hears directly from Americans harmed by illegal financial practices through its searchable public complaints database, which has helped people resolve disputes and allowed the Bureau to identify patterns in predatory industry practices. The system has recorded more than one million consumer complaints.[30]

Even though the economy is on a stable path to recovery and much has been done with the robust work of the Consumer Bureau, there remain areas of critical concern that must be addressed. The CFPB must be allowed to continue to do its work on behalf of consumers. For instance, unaffordable payday loans, which are often directly marketed to financially struggling lower wealth families, servicemembers, and communities of color, typically carry annual percentage rates (APR) of at least 300 percent. These high-cost loans are marketed as quick solutions to a financial emergency. Research shows, however, that they typically lead to debt which is hard to escape, and cause a cascade of other financial consequences, such as increased overdraft fees, delinquency on other bills, involuntary loss of bank accounts, and even bankruptcy. For unaffordable car title loans, the result is too often the repossession of a borrower's car, a critical asset for working families. Nationwide, payday and car title loans drain $8 billion in fees every year. [31]

The CFPB is in the process of developing rules to address unaffordable payday and car title loans and egregious arbitration clauses that deny consumers their day in court. There are also

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[30] Consumer Financial Protection Bureau, CFPB Complaint Snapshot Spotlights Money Transfer Complaints: Bureau Marks Over One Million Consumer Complaints Handled (2016), *available at* https://www.consumerfinance.gov/about-us/newsroom/cfpb-complaint-snapshot-spotlights-money-transfer-complaints/.

[31] Diane Standaert and Delvin Davis, Payday and Car Title Lenders Drain $8 Billion in Fees Every Year (updated 2017), *available at* http://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl_statebystate_fee_drain_may2016_0.pdf.

critical areas of reform that the Consumer Bureau must likewise be empowered to continue to address, including excessive and unnecessary overdraft fees, abusive debt collection practices, credit reporting errors, and student loan servicing practices that hinder students' ability to pay back their loans. It is critical to the American people and economy that this work continues.

VI. The two-tier regulatory approach should be continued and expanded. Other consensus reforms should be adopted.

Regulations should take into account the different business models of community banks and credit unions and their cost structure. Much has already been done in this regard and further steps can be taken. In addition, there are other broader reforms that can reduce obstacles and uncertainly without jeopardizing consumers or overall markets.

There are several substantial regulatory provisions that acknowledge and accommodate the special role and circumstances of community banks and credit unions. These include:

- Banks under $10 billion in assets that are exempted from the examination authority of the Consumer Financial Protection Bureau;
- Banks under $10 billion in assets that are exempted from the interchange provisions of the Durbin amendment;
- Banks under $10 billion in assets that are exempted from all of the enhanced bank prudential standards in Title I of Dodd-Frank;
- Regulators that have reduced liquidity and capital requirements based on bank size, with community banks exempted form new liquidity requirements and subject to more flexible capital requirements; and
- The CFPB's more flexible standards for small creditors and small rural lenders for numerous mortgage requirements including: QM status for small rural lender portfolio loans; higher interest rate thresholds for small lender QM safe harbor loans; exemptions from escrow and other servicing requirements; and generous standards for small rural bank balloon loans. This approach works and should be continued.

Other broader proposals that likewise enjoy broad support would provide further relief to all lenders. Further clarification of False Claims Act liability for Federal Housing Administration (FHA) loans is needed to reduce unnecessary uncertainty and protect responsible lenders. Another reform is that the interest rate level for QM safe harbor loans could be increased from

150 basis points over average prime offer rate (APOR) to 200 basis points. This would substantially reduce the number of mortgages that are classified as higher cost mortgages and that are excluded from safe harbor status. Finally, a major area of relief could be provided around the Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) rules compliance.

BSA/AML compliance is a huge regulatory burden, especially for community banks and credit unions. These laws carry out the critical need to prevent our financial institutions from being used by terrorists, drug dealers, and other criminals to facilitate illegal activities. Today, the onerous task of determining the true identity of owners of accounts falls on the financial institution. The American Bankers Association found that this compliance is "the most costly regulatory burden."[32] It further found that this burden was especially costly for smaller banks. The Independent Community Bankers of America (ICBA) and others have asked that "ownership information should be collected and verified at the time a legal entity is formed by either the Internal Revenue Service or other appropriate federal or state agency, rather than by financial institutions. This would provide uniformity and consistency across the United States."[33] Bipartisan bills have supported this solution, and have been endorsed by the Clearing House Association. This important reform should be enacted.

VII. **Conclusion**.

Financial institutions, especially community banks and credit unions, play an important and essential role in this nation's financial market. CRL understands and supports the need for appropriate regulatory flexibility for small depositories. We oppose, however, any effort to use regulatory relief for community banks and credit unions as a vehicle for non-deposit-taking

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[32] American Banker, BankThink, (2015) *available at* https://www.americanbanker.com/opinion/how-to-lighten-community-banks-aml-compliance-load.

[33] Independent Community Bankers Association, "2017 Plan for Prosperity," *ICBA* (2017), *available at* http://www.icba.org/docs/default-source/icba/advocacy-documents/priorities/icbaplanforprosperity.

lenders and larger financial institutions to avoid having the regulatory scrutiny and oversight that proved lacking in the build up to the financial crisis. The need for regulatory flexibility must be balanced against the importance of consumer safeguards, the safety and soundness of financial institutions, and the security of America's financial system as a whole. Federal financial regulators like the CFPB must be allowed to both protect the American people and ensure access to a broad, sustainable financial market.

We simply cannot afford another financial crisis. Congress should not roll back the CFPB and consumer protections under Dodd-Frank that have and continue to help millions of people across the country. The CFPB structure and funding should remain as Congress enacted so that the Bureau may continue its work on behalf of America's consumers without gridlock and special interest pressure.

I look forward to continuing to work with this Committee, community banks and credit unions, their associations, and regulators to ensure that all of these objectives are satisfied through laws and responsible regulations. Thank you for the opportunity to testify today, and I look forward to answering your questions.