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Testimony

of

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Habitat for Humanity of Charlotte, NC

before the

Subcommittee on Financial Institutions and Consumer Credit
Committee on Financial Services
United States House of Representatives

January 14, 2014

Madam Chair, Mr. Ranking Member, and members of the Subcommittee, thank you for the opportunity to testify regarding regulatory implications of the Dodd-Frank Wall Street Reform and Consumer Protection Act (P.L. 111-203) for Habitat for Humanity's approximately 1500 U.S. affiliates and their partner homeowners in more than 2000 communities around the country. My name is Frank Spencer, and I am the President and CEO of Habitat for Humanity of Charlotte, North Carolina.

Habitat's vision and work in the United States

Habitat for Humanity's vision is a world where everyone has a decent place to live. Anchored by the conviction that housing provides a critical foundation for breaking the cycle of poverty, Habitat has helped more than 4 million people construct, rehabilitate or preserve homes since 1976. Habitat also advocates to improve access to decent and affordable shelter and supports a variety of funding approaches, including mortgage lending models, that enable families with limited resources to make needed improvements on their homes as their time and resources allow. As a nonprofit Christian housing organization, Habitat works in more than 70 countries and welcomes people of all races, religions and nationalities to partner in its mission.

My affiliate, Habitat of Charlotte, NC, builds new homes, rehabilitates foreclosed houses, repairs houses, runs a $4 million ReStore retail outlet, recycles 1,200 tons of steel per year, and currently services approximately 780 non-interest bearing mortgages for its partner families. Habitat Charlotte has served 1,200 families over its 30 years, and is supported by 85 employees and over five thousand volunteers.

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Habitat has a nearly 38 year track record in effectively and consistently addressing the needs of a key underserved sector of the U.S. mortgage market. The mortgages Habitat affiliates originate and service, by design, pose little risk either to our partner families or to the market, as has been demonstrated by Habitat's foreclosure rate that remained at about 2 percent throughout the housing crisis and recession, even outperforming the conventional mortgage market in many locations. The ongoing success of Habitat's self-help homeownership model—a unique approach to home building and mortgage lending that is thriving—merits federal support, not regulatory intervention that threatens its survival.

Habitat greatly appreciates the commitment Congress has made to stable and productive housing markets as the nation continues to recover from the foreclosure crisis and economic recession. The success of the Habitat homeownership model is, in fact, predicated on market stability and the long-term appreciation of real estate value. Habitat looks forward to continuing to work with members of this committee and the Consumer Financial Protection Bureau (CFPB) to protect the Habitat model as we all work to achieve a stable and resilient U.S. homeownership market.

Working toward Dodd-Frank compliance

While today I will testify in support of legislation to exempt Habitat affiliates from certain mortgage regulation reforms, Habitat understands and fully supports efforts to protect consumers and the American taxpayer from predatory lending schemes that undermine the stability of U.S. housing markets. Habitat opposes neither the Qualified Mortgage (QM) standard specifically nor the Dodd-Frank law more generally. Affiliates have worked diligently to meet the new standards, and we seek legislative relief only after having exhausted all other paths to compliance.

In our efforts to comply with these rules and regulations, Habitat has invested in trainings, materials, resources and guidance for affiliates developed in partnership both with industry experts and with law firms. Although Habitat was never the target of Dodd-Frank, compliance has required significant commitments of both human and financial resources that would otherwise be invested in meeting critical housing needs in the communities each of you represent.

Habitat Charlotte is the largest affiliate in North Carolina. We have a full-time employee who is the only Habitat employed licensed mortgage originator in the state. She has spent most of the last year becoming trained on the new standards, auditing our processes to insure compliance, and organizing our staff to prepare for implementation this January. Jill further works to guide other Habitat affiliates through seminars and meetings. She has devoted well over 1000 hours to this process. This is only on the origination side of the process. We have expended equal if not greater effort preparing for the requirements of the servicing component of these new regulations. Though I cannot speak to the specific costs incurred by each of Habitat's U.S. affiliates, as requirements and costs vary from state to state, I can assure you that the costs to nearly all affiliates have been very significant, indeed.

In seeking to avoid the need for legislative relief from Dodd-Frank, Habitat International has also worked closely and extensively with Director Cordray and his staff at the Consumer Financial Protection Bureau (CFPB) to ensure Habitat loans could not wrongly be viewed as "predatory" under the new guidelines and to protect Habitat affiliates from incurring liability simply by continuing to implement the Habitat model that has been highly successful for over 37 years. Habitat holds Mr. Cordray and his staff in the highest regard and appreciates their good-faith efforts, but as the regulations stand today, Habitat affiliates remain at significant risk of debilitating liability.

Protecting Habitat Homeownership Act of 2013 (HR 3529)

In spite of significant investments in compliance by Habitat affiliates and Habitat International's very constructive conversations with the CFPB, Habitat affiliates' state and local government partners and our critical financial partners continue to express concern regarding potential liability they could incur under the new mortgage regulatory framework by partnering with Habitat. Habitat greatly appreciates Rep. Meadows' introducing legislation that would exempt Habitat affiliates from three Dodd-Frank provisions that continue to threaten Habitat's future ability to serve low-income families. HR 3529 exempts affiliates from the following requirements.

(1) **Periodic statement (15 U.S.C. 1638(f)): Costs associated with meeting Dodd-Frank periodic statement requirements unnecessarily divert Habitat affiliate funds from serving families to regulatory compliance.**

    Dodd-Frank includes very detailed requirements for monthly reporting by loan servicers. The primary purpose of the regulation is to ensure consumers are aware of the full costs of their mortgage interest and fees. Because Habitat homeowners are not typically charged interest or fees, the regulations do not serve a consumer protection purposes in the Habitat context, and the significant expense of acquiring the necessary technology platforms to meet the requirement will reduce the number of families affiliates can serve. This provision ensures that all Habitat affiliates will be protected from onerous requirements created for large banks with much greater staffing and resource capacity, even if they service Habitat loans owned or originated by other affiliates.

(2) **Ability-to-repay (ATR) (15 U.S.C. 1639c(a)) : Although QM regulations provide limited protection to Habitat affiliates, regulatory exemptions do not apply to some affiliates, and regulatory uncertainty threatens affiliate relationships with government and financial partners across the board.**

    Because Habitat affiliates are required to serve families without access to traditional sources of mortgage financing, Habitat partner families' debt-to-income ratios will frequently, if not always, fail to meet industry and government ability-to-repay standards. That said, ensuring our families' actual ability to repay their Habitat loans is, obviously, central to the success of the model. Unlike conventional home loan programs, Habitat's partner families who typically earn no more than 60 percent of an area's median income, purchase their homes with affordable, no-profit mortgages provided by local Habitat affiliates. Habitat's no-profit/zero-percent interest loans are made affordable through the use of sweat equity (families must help build their homes), volunteer labor, and cash and in-kind donations. All home sales and mortgage financing transactions limit the monthly payments of a Habitat homeowner to no more than 30 percent of the household's gross income.

    Additionally, all Habitat partner families receive extensive pre-purchase counseling through the affiliate, focusing on issues such as financial responsibility, budgeting, home repair, and being a good neighbor. The relationship between Habitat affiliates and their partner families is a true partnership, not simply a contractual relationship between a home builder and mortgagor and a purchaser. Habitat affiliates and partner families are financially and physically invested in one another and are dedicated to achieving successful homeownership.

Habitat affiliates understand that serving low-income households successfully means putting processes in place to assist partner families when life events result in their being unable to make their mortgage payments, and affiliates have long records of success in partnering with families to develop plans, sometimes including forbearances or loan modifications, to remedy any delinquencies. Partner families, by the same token, know that when they face hardships, their affiliates' family services coordinators are there to assist them in getting back on track.

In spite of the proven success of Habitat partner families in repaying their Habitat mortgages, Dodd-Frank ATR requirements seriously threaten affiliates' ability to meet local housing needs. While we are appreciative of CFPB's exempting affiliates extending credit no more than 200 times annually from the ATR guidelines, many affiliates will not qualify for the exemption, and for others, the exemption is insufficient to maintain longstanding partnerships with government and financial institutions. Government and financial partners are telling affiliates that the ATR exemption fails to protect against potential liability. As a result, tens, if not hundreds, of millions of dollars of investment in Habitat by government and financial institutions is at risk, as are the tens of thousands of families whose future housing needs will otherwise be met through these investments.

Even if the ATR exemption were completely effective, however, many affiliates would remain at serious risk. Although most affiliates extend credit far fewer than 200 times each year, ATR guidelines affect more than might be expected, because subordinate liens are counted against the limit. Most affiliates employ second and sometimes third "soft" mortgages to cover the difference between the appraised value of a home and the value of the first mortgage and to prevent partner families from "flipping" their Habitat home. Because these subordinate liens are typically forgiven over time or become payable only on sale of the property, there is not a monthly cost to the homeowner, meaning they never impact a homeowner's ability to repay a mortgage. New ATR regulations, therefore, threaten to significantly reduce Habitat's ability to serve families without providing any actual protection to the families or the broader housing market.

ATR regulations are also having the unintended consequence of discouraging Habitat affiliates from serving more families and growing their portfolios beyond 200 loans and from working together to improve their mortgage products and portfolios. We in Charlotte have provided mortgage servicing for smaller affiliates. This has both increased the quality of Habitat mortgage originations and servicing and improved the efficiency of affiliates.

In Charlotte, unfortunately, we have recently ended such arrangements, as we could not ensure compliance with the 200 loan limit. The potential liability of non-compliance serves as a disincentive to enter into such arrangements. As an alternative, some affiliates have moved to commercial servicers but retain the significant origination risk for which they are unlikely to have the resources to achieve immediate compliance. The proposed statutory exemption will enable more affiliates to join forces to standardize and improve the quality of their loan products and services, reducing costs and allowing more money to be committed to serving partner families.

(3) Appraisal: Appraisals donated to Habitat potentially violate independence and customary charges regulations (12 CFR §1026.42).

Dodd-Frank implementing regulations require property appraisals to be independent and appraisers to receive "customary and reasonable" fees. Because a large majority of Habitat's appraisals are donated, appraisers most frequently receive no fee at all, meaning affiliates could easily be judged to be in violation of the "customary and reasonable" requirement. Additionally, because the affiliate is receiving an appraisal without providing any value in return, the appraisal, itself, could be judged not to be independent.

Because Habitat's donated appraisals appear to violate the letter of Dodd-Frank's independence and customary fee requirements, and because there is no written clarification or regulatory exemption around this exception, Habitat affiliates remain at serious risk in spite of the CFPB's verbal interpretation declaring donated appraisals are acceptable in the Habitat context. The bill provides the necessary clarification by exempting Habitat's donated appraisals from these two regulations.

Habitat remains strongly committed to Dodd-Frank compliance, and the three exemptions provided in HF 3529 will enable affiliates both to meet the spirit of the law and to focus limited resources on providing responsible mortgage products to well-qualified families.

In conclusion, Habitat for Humanity of Charlotte believes it is in compliance with the law as it now stands. However, knowing the human and financial investment we have made, it is equally clear to me that many of our affiliates cannot adequately make the same investment. These affiliates are often the only option for affordable housing in their communities. Many are in rural areas. They know their borrowers as friends and neighbors. In North Carolina alone there are 85 affiliates. While we operate in the largest metropolitan area, we account for only about ten percent of the Habitat production in the state. Rural and small affiliates account for over half of the housing built.

Habitat offers a hand up, not a hand out. Our home owner partners purchase their homes from us at cost and can afford the mortgage only because it bears no interest. These folks are hard -working people with low-wage jobs. They are playing by the rules, pursuing the American Dream. We ask that you support HR 3529 so that other deserving, qualified families are not inadvertently thwarted in that pursuit.

Thank you, Madam Chair, for the opportunity to testify and for your many years of support of Habitat for Humanity. Thanks also to Representatives Meadows and Butterfield for their leadership on the bill and to all the bill's cosponsors for their support.

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