October 29, 2013

Legislative and Regulatory
Activities Division
Office of the Comptroller of the Currency
400 7th St., SW
Suite 3#-218, Mail Stop 9W-11
Washington, DC 20219
Docket No. OCC-2013-0010

Robert deV. Frierson, Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave., NW
Washington, DC 20551
Docket No. R-1411

Robert E. Feldman, Executive Secretary
Federal Deposit Insurance Corporation
550 17th St., NW
Washington, DC 20429
RIN 3064-AD74

Elizabeth M. Murphy, Secretary
Securities and Exchange Commission
100 F St., NE
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file No. S7-14-11

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Regulations Division
Office of General Counsel
Department of Housing and Urban Development
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Washington, DC 20410-0500

Re: Credit Risk Retention Re-Proposal

Dear Ladies and Gentlemen:

The National Fair Housing Alliance (NFHA) is grateful for the opportunity to provide comments on the re-proposed rule on Credit Risk Retention which is required by § 941 of The Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank).[1] We commend the Agencies for their efforts to carry out the intentions of Congress, as enumerated in Dodd-Frank, to eliminate excessive risk in the mortgage market and in mortgage securitizations by realigning the interests of originators, securitizers and investors with those of borrowers.

As the nation's only civil rights agency dedicated to eliminating all forms of housing discrimination, NFHA represents a cross section of civil, human, and housing rights organizations as well as other types of agencies that believe in and promote equal housing and lending opportunities. NFHA's membership includes over 220 organizations who work to promote fair housing and fair lending practices throughout the nation. NFHA has fought long and hard for a fair, safe and sound primary and secondary finance system. It is an important part of our mission to ensure that Americans enjoy non-discriminatory access to quality, affordable and sustainable credit.

Background

The Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Securities and Exchange Commission, Federal Housing Finance Agency and the Department of Housing and Urban Development (the Agencies) have proposed regulations in fulfillment of Section 941(b) of Dodd-Frank which calls for the prescription of regulations that "(i) require a securitizer to retain not less than 5 percent of the credit risk of any asset that the securitizer, through the issuance of an asset-backed security (ABS), transfers, sells, or conveys to a third party, and (ii) prohibit a securitizer from directly or indirectly hedging or otherwise transferring the credit risk that the securitizer is required to retain under section 15G[2] and the agencies' implementing rules."[3]

The Agencies previously issued proposed regulations on March 30, 2011 which drew great criticism from a variety of commenters because: 1) the regulations were issued in advance of the Qualified Mortgage Rule (QM); and 2) the proposed rule contained a 20 percent down payment requirement for home purchases and a 25 percent equity requirement for loan refinances. Commenters, including NFHA, argued that it would be more feasible for the Agencies to issue the Qualified Residential Mortgage (QRM) or Credit Risk Retention guidance after the QM rule had been developed.

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[1] Section 941 of Dodd-Frank amends the Securities Exchange Act of 1934.
[2] Referencing Section 15G of the Securities Exchange Act of 1934.
[3] See Credit Risk Retention proposed rule R-1411 page 16, available at: http://www.federalreserve.gov/apps/foia/ViewComments.aspx?doc_id=R-1411&doc_ver=2

Section 941 of Dodd-Frank was intended to rebalance the interests of the parties to securitization in a safer and more equitable fashion, so that those who stand to profit from the transactions have an interest in ensuring that the underlying mortgages are safe, sound and sustainable. The misalignment of these interests in recent years drove the origination of high volumes of unsustainable mortgages, including subprime hybrid ARMs, interest-only mortgages, option ARMs, and the like, because they were highly profitable for brokers, originators, securitzers and investors, despite the fact that the borrowers could not sustain the loans over time.

We recognize that the liquidity in the mortgage market provided by securitizations has made mortgage credit more widely available than it would otherwise have been. When this liquidity supports safe and sustainable mortgages, it can expand access to affordable homeownership for American families, which can help those families build wealth that they can leverage to send their children to college, start or expand new businesses, rely on for retirement, and pass along to the next generation. However, when this liquidity supports unsafe and unsustainable mortgages, its impact is devastating for families, communities, and the economy as a whole. The current crisis demonstrates with painful clarity the critical importance of aligning interests among all of the parties to mortgage securitization transactions, and to do so in a way that protects the interests of borrowers. Borrowers have the most at stake but also the least capacity to influence the terms of the deal or hedge against its risk. To the extent that the credit risk retention rules can help to bring about alignment for the borrowers' benefit and protection, they will promote greater economic stability for us all.

Communities of Color Have Been Disportionately Impacted by Poor Lending Practices

Communities of color have been devastated by the risky lending practices of the 1990s and early 2000s. Those communities were targeted for loans that were unsustainable, predatory and often discriminatory, and, as a result, homeowners of color face foreclosure at substantially higher rates than their white counterparts.[4] One of the purposes of the Credit Risk Retention Rule is to help stamp out the types of unsustainable, abusive and, at times, discriminatory loans that were heavily peddled in communities of color in the lead up to the crisis. The Credit Risk Retention rule must enable markets to function at their optimum; markets can only do this if the rules of the road promote broad and fair access to quality, affordable, sustainable credit.

In the lead up to the financial crisis, incentives were not aligned to promote safe and sound loan features. Investors were paying above par rates for loan securitization pools comprised of hybrid option ARMS, negatively amortizing loans, Interest-Only loans and loans with balloon and pre-payment penalty provisions. These were loan features that were common in the subprime sector. Unfortunately, the strong investor appetite for these types of loans, contributed to loan originators' offering premium compensation for steering borrowers into subprime products with problematic loan features. In fact, a

[4] Center for Responsible Lending Research Report, "Foreclosures by Race and Ethnicity: The Demographics of a Crisis," June 18, 2010

former employee of one of the largest lending institutions admitted that in one year alone, she made over $700,000 steering borrowers of color into subprime loans - even when they qualified for prime mortgages.[5]

Steering borrowers into higher-priced and risky subprime loans was a typical practice and an underpinning reason for the explosive growth of the subprime market. Many borrowers who received subprime mortgages actually qualified instead for prime credit. Borrowers were steered into subprime and Alt-A mortgages because of the higher profits lenders could garner. An analysis conducted by First American Loan Performance found that 41 percent of subprime loans made in 2004 went to borrowers who actually would have qualified for a prime rate loan[6]. A study commissioned by the Wall Street Journal revealed that in 2005, 55 percent of subprime borrowers would have qualified for a prime rate loan. The Wall Street Journal analysis also found that in 2006, that number had jumped to as high as 61 percent.[7] Federal Reserve Governor Edward Gramlich noted that half of subprime borrowers had credit scores of 620 or higher.[8]

Abusive and discriminatory practices in the primary and secondary financial sectors resulted in a drag on our economy. These practices worked to create inefficiencies and disruptions in the markets and ultimately dismantled a relatively safe and sound financial system. Indeed, Alan Greenspan, while Chairman of the Federal Reserve Board, observed that discrimination has a devastating impact on our society and economy. He stated,

> "Discrimination is against the interests of business - yet business people too often practice it. To the extent that market participants discriminate, they erect barriers to the free flow of capital and labor to their most profitable employment, and the distribution of output is distorted. In the end, costs are higher, less real output is produced, and national wealth accumulation is slowed. By removing the non-economic distortions that arise as a result of discrimination, we can generate higher returns to both human and physical capital.[9]"

What's more, the impact of the proliferation of unfair, unsafe and discriminatory financial products and services has been keenly felt by communities of color. The homeownership

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[5] Powell, Michael, "*Bank Accused of Pushing Mortgage Deals on Blacks*", June 6, 2009, New York Times. Available at: http://www.nytimes.com/2009/06/07/us/07baltimore.html?pagewanted=all&_r=0

[6] Klein, Ezra, "*Digging into finance's pay dirt: The risky business of payday loans and more.*" July25, 2010, Washington Post. Available at: http://www.washingtonpost.com/wp-dyn/content/article/2010/07/24/AR2010072400153.html

[7] "Subprime Debacle Traps Even Very Creditworthy," *Wall Street Journal*, December 3, 2007.

[8] Kirchhoff and Block, "Subprime Loan Market Grows Despite Troubles", USA Today, December 14, 2004.

[9] Remarks by Alan Greenspan, "Economic Challenges in the New Century," before the Annual Conference of the National Reinvestment Coalition (March 22, 2000), available at : http://www.federalreserve.gov/boarddocs/speeches/2000/20000322.htm

gaps between whites and people of color have gotten worse and, while homeownership levels have dropped for all groups, rates of homeownership for African-Americans has declined the sharpest. As the table below illustrates, homeownership rates for African-Americans peaked in 2003 at 49.4 percent and then began to decline. According to U.S. Census data, the homeownership rate for African-Americans was at 42.9 percent by the 2nd QTR, 2013, which are pre- 1996 levels.

Homeownership Rates by Race and Ethnicity of Householder

	1997	1998	1999	2000	2001	2002	2003	2004
White	71.9	72.6	73.3	73.9	74.4	75	75.5	76.2
Black	45.1	45.9	46.8	47.8	48.1	47.7	49.4	49.1
Hispanic	44	45.7	45.5	47.5	48.8	48.3	47.7	48.9
Other[10] Races	52.5	52.7	54.3	52.4	53.2	55.2	56.6	58.9

	2005	2006	2007	2008	2009	2010	2011	2012	2nd QTR 2013
White	76	76	74.9	74.8	74.5	74.2	73.7	73.6	73.3
Black	48	48.2	47.7	46.8	46	44.9	45.1	44.5	42.9
Hispanic	50	49.5	48.5	48.6	48.4	46.8	46.6	45	45.9
Other Races	60.1	60	58.6	58.3	58.4	57.7	56.5	55.2	54.5

Based on U.S. Census Data - Housing Vacancies and Homeownership Tables - 4QTR figures except for 2013 which depicts 2nd QTR figures.

Indeed, families of color have borne the brunt of the foreclosure and financial crises. Americans who live near foreclosed homes have lost $2 trillion in property values alone. More than half of this lost, over $1 trillion, is from African-American and Latino homeowners[11]. The average spillover cost per family is approximately $21,000, representing a loss of seven percent in home values. However, for families of color, the impact is greater. For these communities, the average loss is $37,000 or a13 percent drop in home value.[12]

It is critical to note that this spillover loss of home value pales in comparison to the loss in home equity which is presently estimated at $7 trillion.[13] This significant loss of wealth in our communities represents a major setback for America's homeowners, particularly homeowners of color, again, stripping decades of economic progress made to achieve more equity between whites and people of color.

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[10] Other Races" includes people who reported Asian, NHOPI, or AI/AN.

[11] Bocian, Debbie; Smith, Peter and Li, Wei, "Collateral Damage: The Spillover Costs of Foreclosures". Center for Responsible Lending, October 24, 2012.

[12] Ibid Bocian, Smith and Li.

[13] Federal Reserve Board, "*The U.S. Housing Market: Current Conditions and Policy Considerations*", January 4, 2012, available at: http://www.federalreserve.gov/publications/other-reports/files/housing-white-paper-20120104.pdf

Families of color will soon constitute the majority of our country's population. It therefore behooves us to adopt financial rules that bring fairness, stability and affordability back to the residential lending marketplace We cannot have a system going forward, in which communities of color are continually relegated to fringe markets. We must allow communities of color equal access to quality, affordable lending products and services. We need to rebuild the road to sustainable homeownership, and to do so, we must rebalance our system for allocating capital for mortgage lending, so that it accurately assesses and manages risk and we re-align the interests of borrower, lender, securitizer and investor. This is just what the credit risk retention requirements are intended to do.

QRM Should Match QM to Ensure Better Market Efficiency

NFHA strongly supports the Agencies' proposal to align QRM with QM. We believe the alignment of QRM with QM will: 1) create better market efficiencies and functionality; 2) promote access to affordable, quality credit; and 3) ensure risk retention for the type of unscrupulous lending practices that caused the financial and foreclosure crises.

(1) Creating Better Market Efficiencies and Functionality

Both the QM and QRM requirements are designed to bring sensible regulation and controls into the financial marketplace. One of the travesties of the financial crisis was that regulators had the authority to reign in many of the abusive practices that were occurring with high levels of frequency, but declined to use that authority. Despite strong encouragement from the civil rights community, regulators were loathe to implement regulations that would have restricted predatory lending practices because they feared, based on information from the industry, that credit would become unattainable for many consumers. The lesson learned from the crisis is that not all credit is good. Bad credit leads to horrible outcomes. Dodd-Frank requires regulators to implement clear rules of the road to protect against the issuance of bad credit.

While we do need good, sound regulations to prevent abusive and harmful credit practices, a confusing conglomeration of rules might be just as harmful as having no rules at all. NFHA supports the QM definition promulgated by the Consumer Finance Protection Bureau (CFPB). We believe the QM definition and ATR standard present a good framework for ensuring safe, sound, affordable and sustainable mortgage loans.

Creating additional rules that bring more complexity and increased regulatory compliance concerns into the lending space will not result in added benefit for consumers or our economy. Indeed, instead of making the marketplace safer, creating a QRM standard that is markedly different from the QM standard may only bring confusion and added costs to the mortgage finance market. It makes perfect sense to match the QRM and QM standards, since the goals of both are so similar.

2) Promote Access to Affordable, Quality Credit

NFHA advocated for a broad but safe QM market. We strongly disagreed with those who argued that a narrow QM market would result in a safe, affordable and non-discriminatory non-QM market. History has proven that when credit is restricted, only the financial elite have access to the safest, best quality lending products. Given the low investor appetite for non-QM mortgages, it is unreasonable to think that non-QM financial products will be affordable or that they would contain features that have proven, over time, to be safe and sound. For example, with limited investor appetite for non-QM mortgages, it is doubtful that the 30-year fixed rate mortgage will be the staple product in that space, even though history has shown that this product type is less risky than ARMs, in particular ARMs with built-in balloon provisions.

For this reason, NFHA was extremely pleased that the CFPB adopted a broad definition for the QM mortgage that excluded down payment or credit scoring requirements. At the same time, the QM definition and ATR standard establish a safe lending environment. The QM Rule:

- restricts loan product features such as balloon payments, teaser interest rates, excessive fees, proven to be harmful and unsustainable;
- requires lenders to establish that a borrower has the ability to repay the loan;
- establishes clear standards so that lenders and borrowers can understand what qualifies as a QM;
- establishes a 43 percent debt-to-income ratio;
- limits the use of harmful yield-spread premiums which previously served as incentives to lenders to place borrowers into higher cost, unsustainable mortgages; and
- establishes limits on pre-payment penalties which proved harmful in the lead up to the crisis.

The QM standard effectively weeds out harmful loans without unduly restricting access to credit by establishing requirements that have relatively little bearing on loan performance. Because the QM standard does not include a down payment or credit scoring restriction, credit access will still be available for the average family, provided the QRM standard does not inject one of these elements.

By matching the QRM standard with the QM standard, the Agencies will be promoting a financial market that not only encourages the origination of safe, affordable and sustainable mortgages but one that also aligns the incentives of investors to the issuance of safe and sound loans.

3) Ensure Risk Retention for The Type Of Unscrupulous Lending Practices that Caused the Financial and Foreclosure Crises

One of the goals of the QRM rule is to discourage the proliferation of unsafe mortgages. To do this, Congress required the Agencies to consider elements that empirical data has demonstrated to result in higher levels of risk. Congress clearly intended that loans with higher levels of risk should not be classified as QRMs but that rather, underwriting and product features that pose little or no risk, would be considered as meeting the qualification for QRMs. Because these loans carry little risk, they are to be excluded from the risk retention requirement.

Because the CFPB placed restrictions for QM qualified loans on many, if not all, of the elements identified in Dodd-Frank as being problematic, the QM definition, as it turns out, addresses the risk factors Congress mandated for consideration for the QRM standard.

Since the QM standard restricts such practices as balloon note provisions, negatively amortizing mortgages, excessive fees, interest-only mortgages, pre-payment penalties and other problematic loan characteristics, it is effectively restricting the origination of abusive loans and the use of unscrupulous lending practices. Thus matching the QRM standard to the QM standard will yield the same outcomes and result in a system in which loans with harmful and risky characteristics will end up carrying the risk retention requirement.

The QRM Rule Must Be Careful To Avoid Creating a Credit Scoring Monopoly

There is one small area where we believe the QRM Rule should provide additional clarification. The QRM Rule should be concomitant with the QM standard, however, the QRM should make it clear that it does not intend to favor one credit scoring system over any others. Indeed, the QRM Rule should make it clear that a credit score is not a requirement for a loan to be considered as meeting the QRM definition.

The National Fair Housing Alliance believes that the risk retention standard should not simply maintain the status quo ("*continuing* access to credit by creditworthy borrowers"), but *expand* access to credit by creditworthy borrowers. For too long, creditworthy borrowers have been denied credit or granted credit only at predatory rates not because they were not credit worthy but because they were thin file/infrequent users of credit or new entrants into the consumer credit market (ex., immigrants, recently divorced or widowed, etc.). It is our understanding that some credit scoring systems, such as FICO, do not score these applicants nearly as well as other scoring mechanisms. For example, VantageScore, which uses more data points and a much more predictive post-recession model, reportedly scores millions more consumers than does FICO.[14]

The QM rule states that one way a mortgage can meet the QM test is if it is eligible for purchase by one of the GSEs. It must be noted that currently both Fannie Mae and Freddie Mac promote the use of the FICO score - even though there are other credit scoring mechanisms available for helping to predict how well borrowers will adhere to their credit obligations. If the Agencies really want to expand access to credit by creditworthy borrowers and help ensure a safe and sound mortgage finance system, the QRM rule should provide a clarification that the QRM rule does not intend to restrict the

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[14] Ellis, Blake, "*New Credit Score Could Help Millions*", March 11, 2013, CNN Money, available at: http://money.cnn.com/2013/03/11/pf/credit-score/

use of empirically sound underwriting tools, such as valid credit scoring mechanisms. The Agencies should be careful to avoid perpetuating a de facto FICO monopoly on credit scores.

It is important to note that the GSEs and FHA do allow the use of non-traditional credit in the loan underwriting process. However, the use of non-traditional credit is only allowed when a FICO score is not available.

The QRM Rule Should Avoid Any Down Payment Requirement

A second option proposed by the Agencies is a 30 percent down payment requirement. The Agencies should not use this option. For decades, low down payment home loans have been a significant and reliable part of the mortgage finance system. Access to low down payment loans is of the utmost importance for the prosperity of our nation's struggling housing finance market, especially as families continue to reel from the housing crisis with minimal savings to use toward a down payment on a home. A mandated down payment for the purchase of homes would not only lock up the housing market for the average American family, and in particular families of color, but it would also decrease demand for housing and result in falling housing prices undermining efforts to revise the US housing market.

A mandated down payment would bar the average American family from accessing affordable and quality home financing. Based on 2011 figures that include closing costs, it would take the typical family 22 years to save for just a 10 percent down payment, and 14 years to save up just for a five percent down payment.[15] The time it would take to save up for a 30 percent down payment for Americans working a wide range of everyday professions is particularly striking. It would take a carpenter making $44,520 annually 49 years; a firefighter making $56,280 annually 46 years; a middle school teacher making $56,280 annually 39 years; a police officer making $57,770 annually 38 years; a registered nurse making $67,930 annually 32 years; and a veterinarian making $93,250 annually 23 years to save for a 30 percent down payment requirement.[16] A down payment mandate of even 10 percent will make homeownership unattainable for the average American.

Mandatory down payments will disproportionately harm borrowers of color. A study by the University of North Carolina Center for Community Capital and the Center for Responsible lending found that among borrowers who took out a home loan from 2004 to 2008 and stayed current on their mortgage payments through February 2011: a required 10 percent down payment would have excluded 60 percent of successful African-American and 50 percent of successful Latino borrowers from getting the mortgage they received. A five percent required down payment would have excluded 33 percent of successful African-American and 22 percent of successful Latino borrowers from getting

[15] Center for Responsible Lending, Issue Brief, "Regulators Should Adopt the Qualified Mortgage Standard for the Qualified Residential Mortgage Definition," June 27, 2013.
[16] Mortgage Bankers Association, Letter to Federal Financial Regulators Re: Credit Risk Retention Re-Proposal, October 24, 2013.

the mortgage they received.[17] Today, it would take the average African-American or Latino family 34 years to save towards a 10 percent down payment, and 28 years to save for a five percent down payment.[18]

Any mandated down payment could effectively stagnate the nation's struggling housing market by locking out creditworthy borrowers with the ability to pay their mortgages. The Joint Center for Housing Studies at Harvard University estimates that households of color account for 70 percent of household growth through 2023.[19] Lower-down payment mortgages provide sustainable access to housing finance for communities of color, and there are proven models for the successful performance of low-down payment mortgages. Self-Help has purchased more than 52,000 mortgages worth $4.7 billion, 72 percent of which were made with borrowers who provided less than a 5 percent down payment and with a delinquency rate that is twice lower than all subprime fixed-rate mortgages.[20]

The Alternative Approach Will Perpetuate A Dual Credit Market Further Marginalizing Communities of Color

The Alternative approach proffered in the proposed QRM Rule creates additional standards that are unnecessary, do not substantially lessen risk, impose higher costs on loan products and services, and close access to quality credit, especially for under-served borrowers and borrowers of color. The Alternative approach would contribute to America's dual financial system and result in increased inequity among racial and ethnic groups.

America has always had a bifurcated credit system - a dual credit market that has relegated borrowers of color to the financial fringe - outside the reach of the financial mainstream. When credit markets are isolated and inaccessible, when lending guidelines for mainstream credit products are overly restrictive, and when regulation is not adequately enforced it is communities of color that become disproportionately steered into higher-cost and volatile credit markets. This is why it is imperative that the QRM standard is formulated to help expand equal access to credit to help eliminate America's dual credit market.

As described above, the dual credit market system has resulted in substantial losses for communities of color. Moreover, as former Fed Chairman Greenspan stated, our dual credit market has stifled the growth of the overall economy. Closing inequity gaps spur

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[17] Quercia, Ding and Reid, *Balancing Risk and Access: Underwriting Standards for Qualified Residential Mortgages*, UNC Center for Community Capital and Center for Responsible Lending (Revised March 5, 2012).
[18] Center for Responsible Lending, Issue Brief, "Regulators Should Adopt the Qualified Mortgage Standard for the Qualified Residential Mortgage Definition," June 27, 2013.
[19] *The State of the Nation's Housing 2013*, Joint Center for Housing Studies at Harvard University (2013).
[20] *Setting the Record Straight on Homeownership*, UNC Center for Community Capital, Research Brief (2012).

economic growth for the entire nation. Indeed, the Center for American Progress found in its recent report that had we closed racial and ethnic gaps in 2011, an additional $1.2 trillion would have been added to the gross domestic product[21].

If we had achieved equity within the financial system, homeowners of color would have experienced foreclosure rates on par with that of white homeowners and the number of foreclosures would have been significantly reduced. As it stands, people of color, and African-Americans in particular are experiencing unduly high foreclosure rates. An analysis by the Center for Responsible Lending revealed that nearly 8% of African-Americans and Latinos have lost their homes to foreclosure, compared to 4.5% of non-Hispanic Whites[22]. Moreover, a recent study by the Bureau of Labor Statistics, using the NLSY79 dataset[23] reveals that African-Americans had a substantially steep drop in the level of homeownership from 2008 to 2010. African-Americans experienced a decline of 5.3% in homeownership during that time period while both Hispanics and Non-Hispanic Whites experienced a decline of 1.8%[24].

The Alternative approach included in the proposed QRM rule would only perpetuate a dual credit system. It would do more to lock borrowers of color and under-served borrowers out of the financial mainstream. The Alternative Approach or "QM-plus" would begin with the core QM criteria but then add four additional factors[25]:

- One-to-Four family principal dwellings: QRM treatment would only apply for loans that are secured by 1-to-4 family real properties that are the principal dwelling of the borrower;
- First-lien mortgages: The QM-plus excludes "piggyback" loans and requires no other recorded or perfected liens on the property. In the case of a loan refinance, junior liens are permitted but they must be included in the LTV calculation;
- Conservative, hard-wired credit restriction: The borrower cannot be 30 or more days past due on any debt. Additionally, the borrower cannot be 60 or more days late on any debt within the preceding 24 months. Moreover, the borrower must not have been a debtor in a bankruptcy proceeding or been subject t a judgment for collection of an unpaid debt; had personal property repossessed; had any 1-to-

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[21] Weller, Christian and Ahmad, Farah, The State of Communities of Color in the U.S. Economy: Still Feeling the Pain 4 Years into the Recovery, Center for American Progress, October 29, 2012, available at: http://www.americanprogress.org/issues/economy/report/2013/10/29/78318/the-state-of-communities-of-color-in-the-u-s-economy-2/?elq=fc7053d9613b4a428abdbd9302a64dc0

[22] Bocian, Debbie, Li, Wei, and Ernst, Keith, Foreclosures by Race and Ethnicity: The Demographics of a Crisis, Center for Responsible Lending, June 18, 2010.

[23] The NLSY79 dataset is a nationally representative sample of 12,686 men and women born from 1957 to 1964 and living in the United States at the time of the initial survey conducted by the Bureau of Labor Statistics.

[24] Aughinbaugh, Alison, "*Patterns of Homeownership, Delinquency, and Foreclosure among Youngest Baby Boomers*", Bureau of Labor Statistics, February, 2013, available at: http://www.bls.gov/opub/btn/volume-2/patterns-of-homeownership.htm

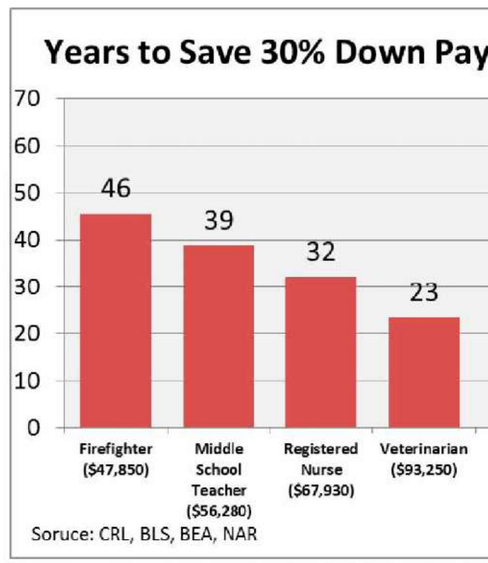
[25] See Credit Risk Retention Proposed Rule, pages 274 - 278, available at: http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20130828a1.pdf

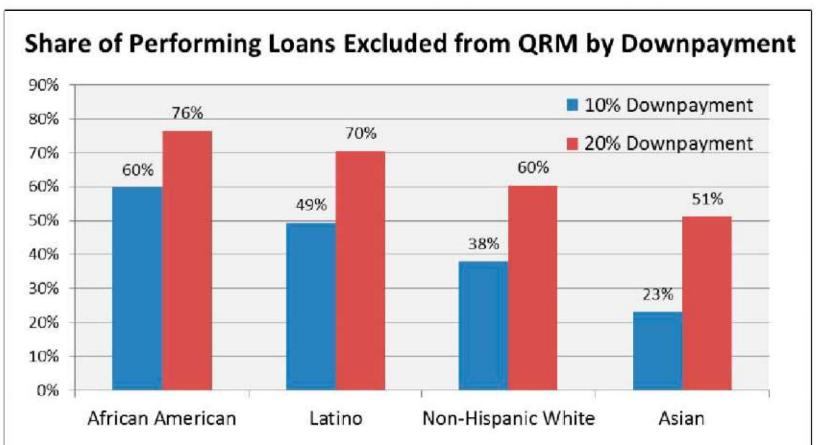
4 family property foreclosed upon; or engaged in a short sale or deed in lieu of foreclosure within the preceding 36 months;

- Thirty percent down payment requirement: The LTV at closing cannot exceed 70%. Junior liens, which would only be permitted for loan refinances, must be included in the LTV calculation.

The Average Borrower Would not be Able to Meet a 30% Downpayment Requirement

As the table below reveals, a down-payment requirement would put homeownership out of reach for most Americans. It would take a middle school teacher 39 years to save enough money to afford a 30% down payment on an affordable home. The impact of this proposed rule is even more stark when assessed for the effect of such a rule on communities of color. It would take the average Latino borrower 55 years to save enough money for a 30% down payment. It would take the average African-American borrower 66 years. Establishing this type of barrier to quality, affordable credit markets is unconscionable.





Source: Roberto Quercia, Lei Ding, and Carolina Reid (2012). "Balancing Risk and Access: Underwriting Standards for Qualified Residential Mortgages," UNC Center for Community Capital Research Report, January 2012

What's more, evidence reveals that an excessively high down-payment requirement would not substantially improve loan performance or substantially reduce risk. The chart below depicts the number of currently performing loans (as of 2012) that would be excluded from a QRM designation with either a 10% or a 20% down payment requirement. Seventy percent of performing loans made to Latinos and 76% of performing loans made to African-Americans would be excluded based on a 20% down payment requirement. Indeed, the chart reveals that the majority of performing loans made to all borrowers would be excluded by a 20% down payment requirement.

Conservative, Hard-Wired Credit Requirements Would Disproportionately Impact Borrowers of Color

The financial damage caused by the financial and foreclosure crises has been keenly felt by millions of Americans. But the financial crisis has had a major impact on borrowers of color. Some experts estimate that it will take over two decades for African-Americans to bounce back from the crisis. Likewise, Latino borrowers will toil for years before they recover. Because African-American and Latino borrowers held a disproportionate share of subprime loans, they have borne the brunt of the economic and financial pain and are suffering more severe setbacks[26].

For this reason, the QRM rule must leave room, as does the QM rule, for the lending market to responsibly underwrite borrowers based on a variety of underwriting criteria, including a thorough analysis of the borrower's financial profile. Placing an over-reliance on the credit score will undoubtedly lead to further inequities and may also disclose completely credit-worthy borrowers, who but for the fact that they received an unsustainable loan - a loan that was designed to fail - would be able to demonstrate their ability to repay their loan obligations.

The cards were already stacked against borrowers of color. The QRM rule should not further cripple borrowers by placing unnecessary restrictions on their ability to obtain affordable, sustainable credit.

[26] Mui, Ylan, "For Black Americans, Financial Damage from Subprime Implosion is Likely to Last", The Washington Post, July 8, 2012, available at: http://www.washingtonpost.com/business/economy/for-black-americans-financial-damage-from-subprime-implosion-is-likely-to-last/2012/07/08/gJQAwNmzWW_print.html