RISK RETENTION/QUALIFIED RESIDENTIAL MORTGAGE (QRM) PROPOSED RULE

National Association of REALTORS®
Government Affairs Division
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Dodd-Frank Act

- A central problem of the financial crisis involved mortgage backed securities that received AAA ratings from S&P, Moody's, and Fitch, but that plummeted in value when the housing market collapsed.
- To protect investors and avoid excessive risk-taking, the DFA added a new section to the Securities Exchange Act of 1934 to require securitizers of mortgages to retain 5% of the credit risk of a residential mortgage assets that it sells to a third party, with some exceptions.

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Proposed Rule

- Issued by 6 regulatory agencies:
  - Federal Reserve Board
  - FHFA (regulator of Fannie & Freddie)
  - HUD
  - FDIC
  - SEC
  - OCC (bank regulator)
- Comments were due August 1, 2011.

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Proposed Exceptions to Risk Retention

- FHA loans (statutory exemption).
- Fannie Mae/Freddie Mac loans while in conservatorship.
- Qualified Residential Mortgage (QRM):
  - Narrower than needed to assure safe and sound lending.
  - Traditional residential mortgages, without risky features but with sound underwriting and documentation of income and assets, should qualify for QRM exemption.
- The proposed rule is inconsistent with both the Act and legislative history calling on balancing need for credit with protecting investors.

Coalition for Sensible Housing Policy

- NAR spearheaded a broad coalition of 45 groups including all the key bank trade associations, key consumer and fair housing groups, mortgage insurers, and the real estate industry.
- Check out its website: SensibleHousingPolicy.org.
- The Coalition is continuing its work to educate the regulators about the damage the proposed rule would cause.

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Congress Also Opposes Proposed Rule

More than a majority of both the House and Senate have written regulators urging them to broaden the QRM definition to avoid hurting creditworthy borrowers.

QRM Definition

As proposed, QRM would be defined narrowly to include only the very best mortgages:

- 20% downpayment.
- Stringent DTI ratio requirements (28%/36%).
- Rigid credit standards.

Overly narrow—will raise costs or deny loans to millions of creditworthy borrowers.

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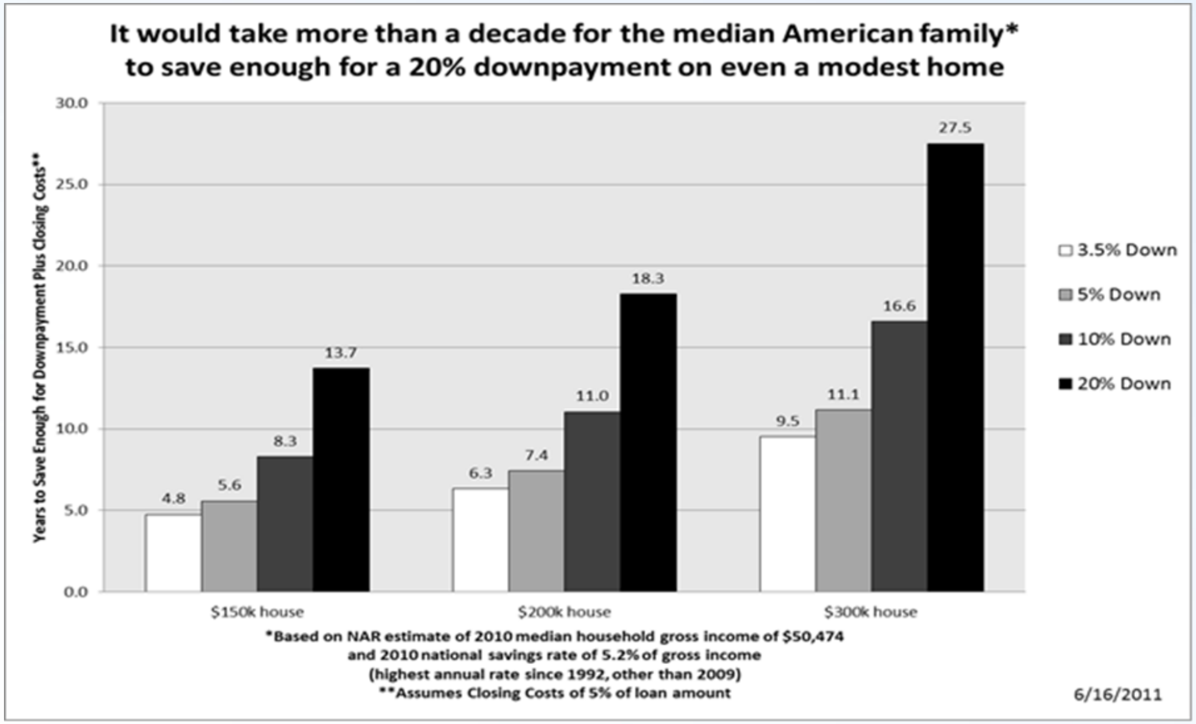
QRM—Impact of Downpayment Requirement



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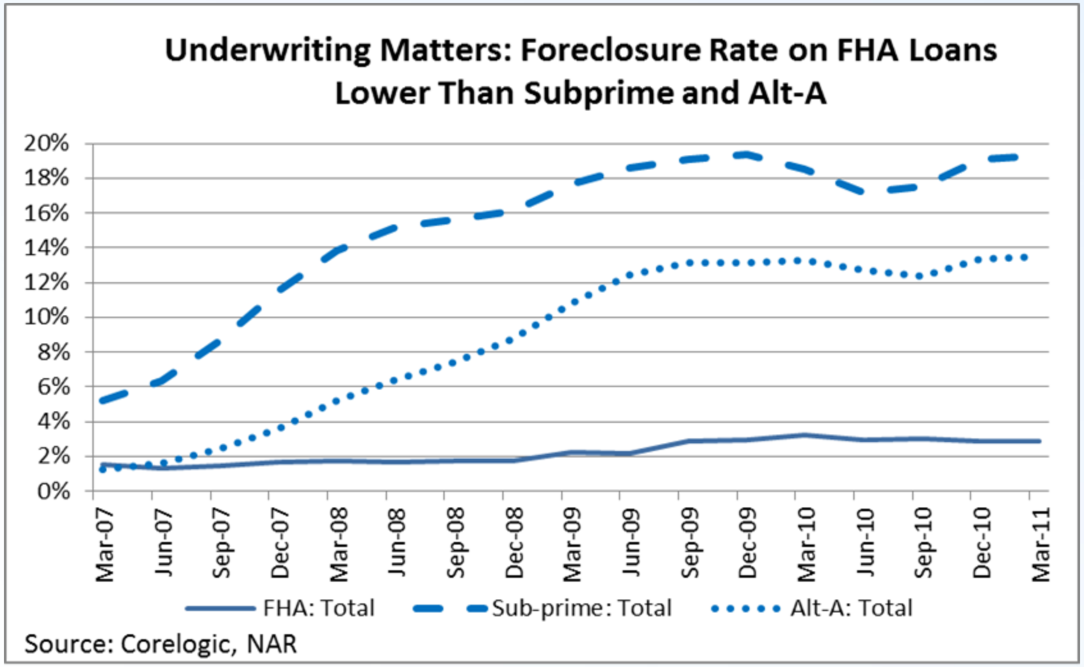
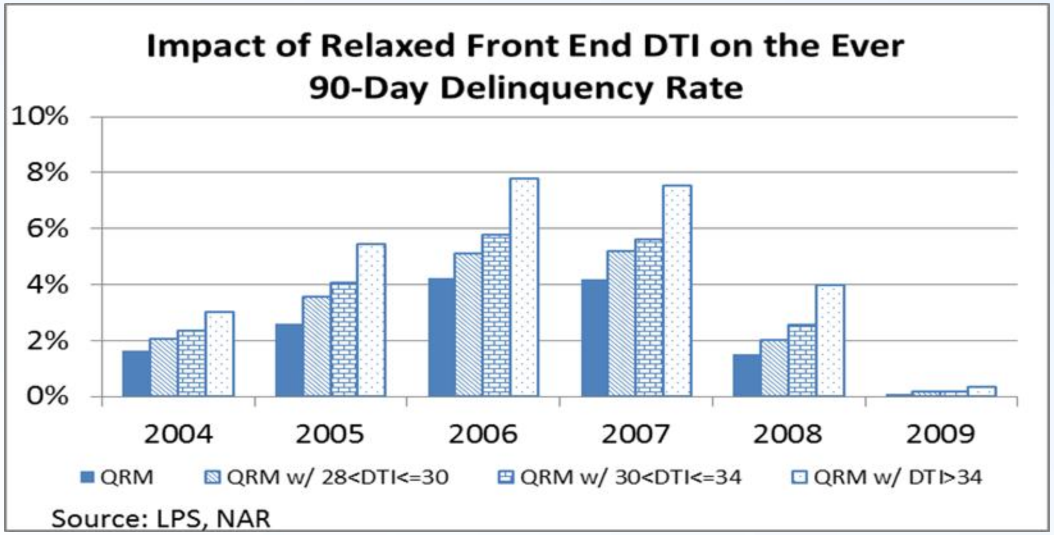
QRM—No Need for 20% Downpayment



Stringent DTI—Not Needed



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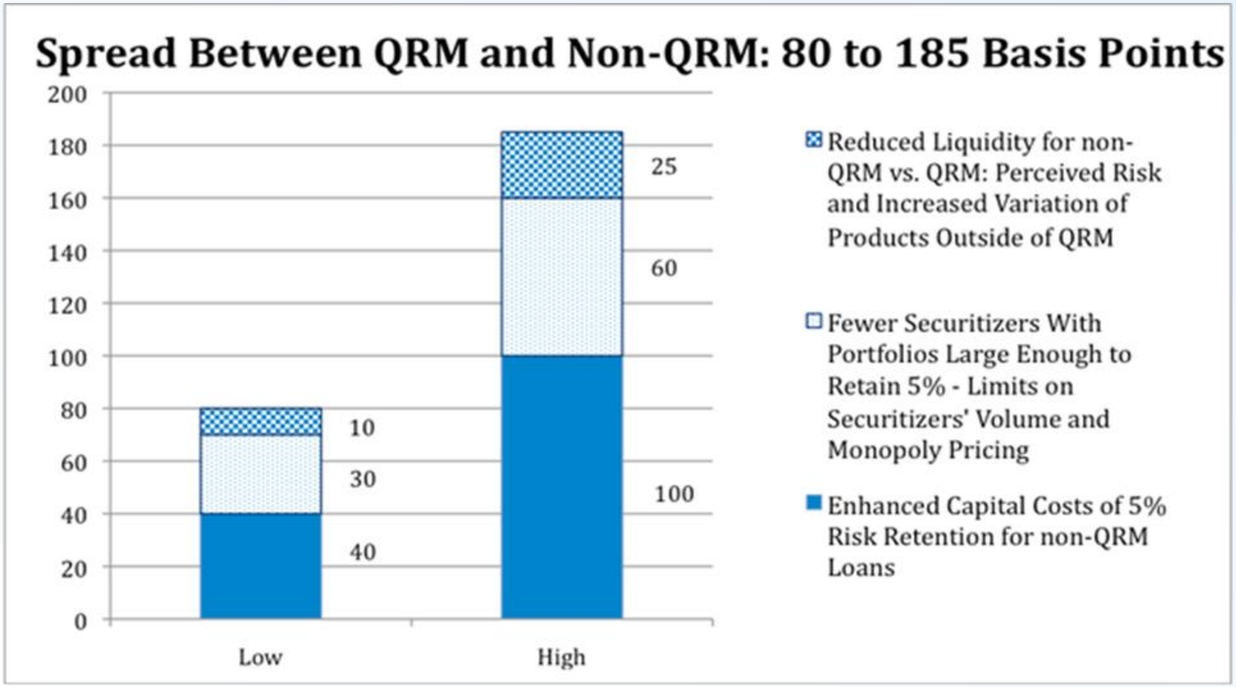
Rigid Credit Standards

- Proposed Credit Standards:
    - Not 30+ days currently late on any debt.
    - Within past 24 months, not 60+ days late on any debt.
    - Within past 36 months, no bankruptcy, repossession, foreclosure, deed-in-lieu, or short sale.
- Does not allow for compensating factors.
- NAR proposal: consider propensity to default of the borrower, not rigid criteria or a fixed credit score.

Higher Costs for Non-QRM Mortgages

- NAR estimates an additional 80-185 basis points for non-QRM mortgages.
  – For example, if a QRM mortgage qualifies for a 5% rate, a non-QRM mortgage would have a rate of 5.8% to 6.85%.
- Mark Zandi of Moody's Analytics estimates "conservatively" that non-QRM borrowers will pay 75-100 basis points more.
- The American Securitization Forum estimates that interest rates would be 200 basis points higher, just from one feature of the proposal called the premium capture rule.

NAR's Estimate of the Increased Cost



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Impact on Commercial and Multifamily Loans

- For details, check out the NAR 36 page comment letter; 10 pages devoted to commercial and multifamily loans.
- Proposal would harm commercial lending by failing to take into account unique characteristics and economics of the commercial mortgage backed securities market.
- As proposed, the rule would reduce access to capital for the commercial and multifamily industry.

Next Steps

- The 6 regulators will have to digest thousands of public comments.
- Then they will have to negotiate with each other on how to proceed.
- NAR asks the regulators to go back to the drawing board and come out with a new proposed rule that will not harm the mortgage and housing markets.
- A somewhat higher delinquency rate is a reasonable trade-off to avoid denying homeownership to millions of creditworthy Americans and perpetuating economic instability.
- Final regulations will be effective 1 year after publication. Date TBD.

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