NAR Issue Summary
Commercial / Qualified Commercial Real Estate (QCRE) Loan Regulations

NAR Committee:

Commercial Federal Policy Committee

What is the fundamental issue?

A portion of the Dodd-Frank Act, the "commercial risk retention rule," went into effect on December 24, 2016. The rule is intended to ensure that institutions that package securities have 'skin in the game' by requiring a 5% risk retention obligation by a commercial mortgage-backed securities (CMBS) sponsor. As written, the risk retention rule treats certain commercial real estate loans as being particularly risky. The Qualified Commercial Real Estate (QCRE) definition exempts some loans from the risk retention requirement. QCRE loans are provided the exemption from the risk retention requirements based on positive historical performance of the loans. However, as currently written, QCRE only includes 4% of all outstanding commercial loans.

I am a real estate professional. What does this mean for my business?

As implemented, this rule may translate into higher commercial borrowing costs in communities across the country. CMBS provides financing to retail, office, apartments, industrial, health care and many other types of commercial real estate. The QCRE exemption allows some CRE loans to be freed from the heavier cost burdens of the risk retention categories, but as currently written is too narrow to alleviate much of the negative impact of the risk retention rules.

NAR Policy:

NAR supports legislative and regulatory activity that eases and increases lending to commercial real estate. NAR opposes policy changes that restrict lending. NAR supports modest changes to the rule's QCRE exception.

Opposition Arguments:

Commercial real estate lending is a volatile sector of the economy and should be held to closer scrutiny.

Legislative/Regulatory Status/Outlook

NAR supports making modest changes to the proposed QCRE exemption, widening it to include certain low-risk CMBS transactions. CMBS are important sources of

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financing for commercial real estate projects of all kinds, and are especially important in secondary and tertiary markets. Arbitrarily reducing liquidity in the CMBS market will reduce liquidity across the board and raise borrowing costs for commercial real estate loans in all markets.

In the 114th Congress, NAR supported H.R. 4620, the Preserving Access to CRE Capital Act, sponsored by Rep. French Hill (R-AR), which would have widened the QCRE exemption to the commercial risk retention rules to include Single Asset/Single Borrower (SASB) CMBS transactions. (SASB CMBS collateral is either a single property or multiple properties, all from a single borrower.) These types of transactions are historically low risk. In February 2016, NAR sent a letter of support for this bill to the House Financial Services Committee, as well as joined an industry coalition letter; that same month, the bill was approved by the Committee. However, bipartisan companion legislation from the Senate was not ever formally introduced, and the bill was not voted on by the full House in 2016. NAR will advocate for this bill to be reintroduced in the 115th Congress as they consider Dodd-Frank other regulatory reforms, and will support bills that safely widen the QCRE exemption to the Commercial Risk Retention Rules.

Current Legislation/Regulation (bill number or regulation)

No legislation at this time.

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