

### **NAR Committee:**

Conventional Financing and Policy Committee

### **What is the fundamental issue?**

The Dodd-Frank Act requires lenders that securitize mortgage loans to retain 5% of the credit risk unless the mortgage is a Qualified Residential Mortgage (QRM) or is otherwise exempt. Six federal regulators originally issued a proposed rule that narrowly defined a QRM to require a 20% down payment, stringent debt-to-income ratios, and rigid credit standards. Late 2013, the rule was re-proposed to match the definition of a “QRM” with the definition of the Consumer Financial Protection Bureau’s Qualified Mortgage rule, or “QM”. In addition to the main proposal, regulators introduced an unfavorable alternative that would require buyers to put 30 percent down to qualify for a QRM loan, a restrictive measure that dramatically favors the wealthy. NAR advocated for adoption of the preferred standard which is in line with the congressional intent of a QRM exemption that includes a wide variety of traditionally safe, well documented and properly underwritten products. In October of 2014, regulator released the final rule, agreeing with NAR and matching the definition of QRM with QM. The rule took effect in late 2015.

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

FHA and GSE loans, while Fannie Mae and Freddie Mac are in conservatorship, have been deemed exempt from risk retention, making the alignment of the QRM definition with QM a great step forward in getting private capital more engaged in the marketplace while still protecting the flow of credit from FHA and the GSEs. NAR was concerned that a QRM definition that included a 20% or 30% downpayment requirement would create significant barriers for millions of home buyers to qualify for low-cost financing, and could potentially frustrate efforts to stabilize the housing market. The QRM definition is of extraordinary importance because it will determine the types of mortgages that will be generally available for borrowers for the foreseeable future. QRM is also important because it serves as a precursor for what the successor(s) to the current GSEs are likely to be allowed to securitize.

### **NAR Policy:**

NAR believes that Congress intended to create a broad QRM exemption. The purpose of the QRM exception from the risk retention requirement is to encourage safe, reasonably priced lending, not to raise costs for millions of creditworthy borrowers. NAR and those who share its perspective argue that the definition of a QRM is based on loan features and underwriting standards that have historically demonstrated a low risk of default, including loans with sound underwriting, and documentation of income and assets. Loans with risky features such as teaser rates, negative amortization, and balloon payments do not, and should not, qualify as QRM loans.

In general, to qualify for QM under the CFPB’s rule, loan must meet the 43 percent debt-to-income ratio requirement, have verified income and assets, generally have points and fees that do not exceed the 3

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percent cap, have regular periodic payments, and contain no negative amortization, interest only or balloon features (with exceptions for certain small creditors).

The final rule also exempts housing bonds issued by state housing finance agencies from the risk retention requirements. The exemption will allow HFAs to continue their mission of providing affordable homeownership opportunities.

To learn more visit: [www.nar.realtor/qualified-residential-mortgage-qrm](http://www.nar.realtor/qualified-residential-mortgage-qrm)

### Opposition Arguments:

Opponents of NAR policy believe lenders should have more “skin in the game” when securitizing mortgages. This will promote safe and sound lending and assure investors they will be protected. Some also believe that the exemption of Fannie Mae, Freddie Mac, and FHA minimizes the effectiveness of the rule.

### Legislative/Regulatory Status/Outlook

The deadline for public comments on the re-proposed Risk Retention/QRM rule was October 30, 2013. NAR and its nearly 50 partners in the Coalition for Sensible Housing Policy submitted joint comments to the regulators in a White Paper entitled [“Proposed Qualified Residential Mortgage Definition Harms Creditworthy Borrowers While Frustrating Housing Recovery.”](#) NAR submitted its own individual comment on October 30, 2013. The Senate sponsors of the QRM provision strongly support the message of the Coalition. A majority of the members of both the House and Senate have sent letters to the regulators opposing the original proposed rule. The final rule was agreed upon by regulators October 2014 and took effect late 2015. The QM rule was implemented in January 2014 giving the majority of securitizers a clear path to implement QRM parameters in advance of the effective date.

[NAR's Comment on Risk Retention/QRM Proposed Rule](#) (August 1, 2011)

[NAR's Comment on Re-Proposed Risk Retention/QRM Rule](#) (October 30, 2013)

### Current Legislation/Regulation (bill number or regulation)

The [Risk Retention/QRM proposed rule](#) was issued pursuant to Section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. It was published on August 28, 2013, by six banking and housing agencies: the Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the Securities and Exchange Commission (SEC), the Office of the Comptroller of the Currency (OCC), the Department of Housing and Urban Development (HUD), and the Federal Housing Finance Agency (FHFA). On October 21st, 2014, the FDIC was the first of the six agencies to approve the [Final Risk Retention rule](#) which includes a broad definition of QRM that aligns with the QM standard implemented in early 2014.

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