Honorable Ben S. Bernanke
Chairman
Board of Governors of the
Federal Reserve System
Washington, DC 20551

Honorable Martin J. Gruenberg
Chairman
Federal Deposit Insurance Corporation
Washington, DC 20429

Mr. Edward J. DeMarco
Acting Director
Federal Housing Finance Agency
Washington, DC 20552

Honorable Mary Jo White
Chair
Securities and Exchange Commission
Washington, DC 20549

Honorable Shaun Donovan
Secretary
Department of Housing
and Urban Development
Washington, DC 20410

Mr. Thomas J. Curry
Comptroller
Office of the Comptroller of the Currency
Washington, DC 20219

Re: Credit Risk Retention Proposed Rule
Transmitted electronically to www.regulations.gov regarding:

- OCC: (Docket No. OCC-2013-0010)
- Federal Reserve: (Docket No. R-1411)
- FDIC: (RIN 3064-AD74)
- SEC: (File Number S7-14-11)
- FHFA: (RIN 2590-AA43)
- HUD: (RIN 2501-AD-53)

Ladies and Gentlemen:

The Coalition for Sensible Housing Policy is a diverse coalition of 52 consumer organizations, civil rights groups, lenders, housing organizations, real estate professionals, insurers and local governments that have joined together to submit the attached white paper as our formal comment letter to the Credit Risk Retention rule proposed by six agencies. We applaud the agencies for modifying the original proposed rule to align the definitions of Qualified Residential Mortgage with the previously adopted Qualified Mortgage as defined by the Dodd Frank Financial Reform Act. We further believe that the preferred approach, without an explicit down payment requirement, provides adequate protections for both investors and borrowers.

Most of the members of the coalition will be submitting their own comment letters on the broader risk retention rule, in addition to this joint submission. However, the organizations in the coalition share strong support for the re-proposed rule's primary recommendation which achieves the twin objectives of protecting the marketplace while ensuring borrowers have access to safe mortgages.

Additionally, while some have argued for an alternative approach, which would require borrowers to make a 30 percent down payment, the coalition opposes this notion. A 30 percent down requirement, otherwise known as 'QM-Plus', is essentially a restriction with difficult credit standards for creditworthy borrowers to access mortgage credit.

The attached paper details the shared opinion that synchronizing the definition of QRM with QM, the revised rule will encourage safe and financially prudent mortgage lending, while also creating more opportunities for private capital to reestablish itself as part of a robust and competitive mortgage market. Most importantly, it will help ensure creditworthy homebuyers have access to safe mortgage financing with lower risk of default.

Sincerely,

American Bankers Association
American Escrow Association
American Financial Services Association
American Land Title Association
American Rental Property Owners and Landlords Association
Asian Real Estate Association of America
Black Leadership Forum
Center for American Progress
Center for Responsible Lending
Coalition of US Mortgage Insurance Companies
Colorado Mortgage Lenders Association
Community Associations Institute
Community Home Lenders Association
Community Mortgage Lenders of America
Community Reinvestment Coalition of North Carolina
Consumer Federation of America
Consumer Mortgage Coalition
Council Of Federal Home Loan Banks
Credit Union National Association
Enterprise Community Partners, Inc.
Habitat for Humanity International
HomeFree USA
Homeownership Preservation Foundation
Housing Partnership Network
Independent Community Bankers of America
International Association of Official Human Rights Agencies
Leading Builders of America
Louisiana Bankers Association
Manufactured Housing Institute
Mortgage Bankers Association
NAACP
National Association of Federal Credit Unions
National Association of Hispanic Real Estate Professionals
National Association of Home Builders
National Association of Human Rights Workers
National Association of Neighborhoods
National Association of Real Estate Brokers
National Association of REALTORS®
National Association of the Remodeling Industry
National Community Reinvestment Coalition
National Fair Housing Alliance
National Housing Conference
National NeighborWorks Association
National Urban League
National Real Estate Investors Association
North Carolina Institute for Minority Economic Development
Real Estate Services Providers Council
Real Estate Valuation Advocacy Association
The Realty Alliance
Texas Bankers Association
U.S. Conference of Mayors
Worldwide ERC

The Coalition for Sensible Housing Policy

UPDATED QRM PROPOSAL STRIKES BALANCE:
PRESERVES ACCESS WHILE SAFEGUARDING CONSUMERS AND MARKET

As Submitted to Federal Regulators October 30, 2013

UPDATED QRM PROPOSAL STRIKES BALANCE:
PRESERVES ACCESS WHILE SAFEGUARDING CONSUMERS AND MARKET

Prepared by:

The Coalition for Sensible Housing Policy

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Credit Union National Association
Enterprise Community Partners, Inc.
Habitat for Humanity International
HomeFree USA
Homeownership Preservation Foundation
Housing Partnership Network
Independent Community Bankers of America
International Association of Official Human Rights Agencies
Leading Builders of America
Louisiana Bankers Association
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UPDATED QRM PROPOSAL STRIKES BALANCE:
PRESERVES ACCESS WHILE SAFEGUARDING CONSUMERS AND MARKET

INTRO

The Coalition for Sensible Housing Policy is a diverse coalition of 52 consumer organizations, civil rights groups, lenders, real estate professionals, housing organizations, mortgage insurers and local governments that share the goal of attracting private capital to the mortgage market while ensuring that creditworthy families, including those unable to afford a large down payment, are not unnecessarily excluded from homeownership opportunities.

The Coalition strongly supports the re-proposed rule's primary recommendation to incorporate the Qualified Mortgage (QM) standard to define the Qualified Residential Mortgage (QRM).

This approach achieves the twin objectives of protecting the marketplace while ensuring borrowers have access to safe mortgages. Investors will remain confident they can rely on the quality of mortgages underlying securitizations and creditworthy borrowers will be able to obtain access to conventional financing for safe, sustainable mortgages. At the same time, it also assures that loans with the highest risk – those with the product features explicitly excluded by QM – will be subject to the risk retention rules for asset backed securities. In releasing the re-proposed rule, regulators expressed valid concerns that establishing diverse standards for QM and QRM loans could result in an increase in complexity, regulatory burden and compliance costs that will be passed on to borrowers in the form of higher interest rates and restrictive credit standards.

The Coalition for Sensible Housing Policy strongly opposes the alternative "QM-Plus" approach in the proposed rule, which would require borrowers to make a 30 percent down payment to obtain a QRM loan. Such a restriction along with unduly difficult credit standards will restrict access to mortgage credit for far too many creditworthy borrowers.

In contrast, data that we describe in this paper indicates that the underwriting and loan product limitations that are mandated for QM loans effectively limit the risk of default without excluding large numbers of creditworthy borrowers.

1. HISTORY OF QRM

a. BASICS of QRM

As part of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank), Congress sought to design a framework for improving the quality of mortgage lending and restoring private capital to the housing market. To better protect investors and discourage excessive risk taking, Congress required securitizers to retain five percent of the credit risk on loans packaged and sold as mortgage securities. However, because across-the-board risk retention would impose significant (and unnecessary) restrictions on responsible, creditworthy borrowers, legislators also mandated an exemption for "Qualified Residential Mortgages (QRM)," that was to be defined by regulators to include mortgages with product features and sound underwriting standards that have been proven to reduce the risk of default.[1]

b. PREVIOUS RULE

In April 2011 regulators proposed a Qualified Residential Mortgage (QRM) rule that was inconsistent with the goals outlined by Congress of preserving access to mortgages while protecting against a repeat crisis.[2] Specifically, regulators developed a QRM definition with provisions mandating high down payments, stringent debt-to-income ratios and burdensome credit standards that would have raised unnecessary barriers for creditworthy borrowers seeking the lower rates and preferred product features of the QRM.

i) Legislative Intent

The 2011 proposed rule required a high down payment - 20 percent with even higher levels of minimum equity required for refinancing – despite the fact that Congress considered and rejected establishing minimum down payments because loans have been shown to perform well without high levels of equity when there is strong underwriting and safe, stable product features.

The housing crisis was not caused by high LTV lending, but rather by a range of factors including an overheated housing market, lapses in solid underwriting, strong investor appetites, the inappropriate layering of risk, and the introduction of complex loan products that most consumers could not understand and over time could not afford.

The legislative history regarding QRM clearly demonstrates Congressional intent to avoid a minimum down payment requirement. During Congressional debate on the bill, a proposed amendment to require a down payment of five percent was voted upon and rejected by the Senate.

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[1] The statutory framework for the QRM requires the regulators to evaluate underwriting and product features that historical data indicate result in lower risk of default, including: documentation requirements; monthly payment-to-income standards; payment shock protections; restrictions or prohibitions on negative amortization, interest-only and other risky features; and mortgage insurance coverage or other credit enhancements obtained at origination to the extent they reduce default risk.

[2] Congress directed regulators to balance the need for credit standards against the need to improve access to credit, providing that exemptions from the risk retention rules shall "… improve the access of consumers and businesses to credit on reasonable terms, or otherwise be in the public interest and for the protection of investors." Section 15G(e)(2)(B) of the Securities and Exchange Act of 1934 (15 U.S.C. 78(a) et. seq.), as added by Section 941(b) of the Dodd-Frank Act.

Chairman Christopher Dodd (CT) argued that it could inappropriately and inadvertently cut off home ownership saying:

The amendment "would have very serious consequences … for first-time homebuyers, minority home buyers, and others seeking to attain the American dream of home ownership."[3]

Ultimately the Senate accepted an amendment from Senators Mary Landrieu (LA), Kay Hagan (NC) and Johnny Isakson (GA) that did not contain any down payment requirement and created an exception for Qualified Residential Mortgages. A version of this amendment was ultimately included in Dodd-Frank and became law.[4]

ii) Strong Opposition to First Proposed Rule (2011)

Upon review of the rule, housing, financial and consumer groups mounted strong opposition to the proposal, arguing it would make it harder for borrowers, especially first time home buyers and members of underserved communities, to afford a down payment on a home.

As the Coalition wrote at the time:

"Unnecessarily high down-payment requirements under QRM would make a near-term housing recovery almost impossible… thwarts the will of Congress, impedes the economic recovery and unnecessarily burdens American homebuyers."[5]

Further, a bipartisan group of senators (Isakson, Landrieu, Hagan) who drafted the language requiring the QRM rule in the 2010 Dodd-Frank Act wrote a letter to regulators urging them to drop a strict down-payment requirement:

"Our intent as the drafters of this provision was, and remains, clear: to incent the origination of well-underwritten mortgages with traditional terms. We intentionally omitted a specific down payment requirement and never contemplated the rigid 20 percent or 10 percent as discussed in the March 2011 notice of proposed rulemaking."

The impact of the down payment requirements would have presented consumers with a difficult trade off – either pay a substantially higher rate for a non-QRM loan or wait significantly longer to purchase a home, if ever. By several estimates, risk retention for

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[3] 156 Congressional Record S3518

[4] Amendment N. 3956, 156 Congressional Record S3575 (May 12, 2010). The amendment was co-sponsored by Senators Hagan, Warner, Menendez, Tester, Lincoln, Levin, Burr and Hutchison.

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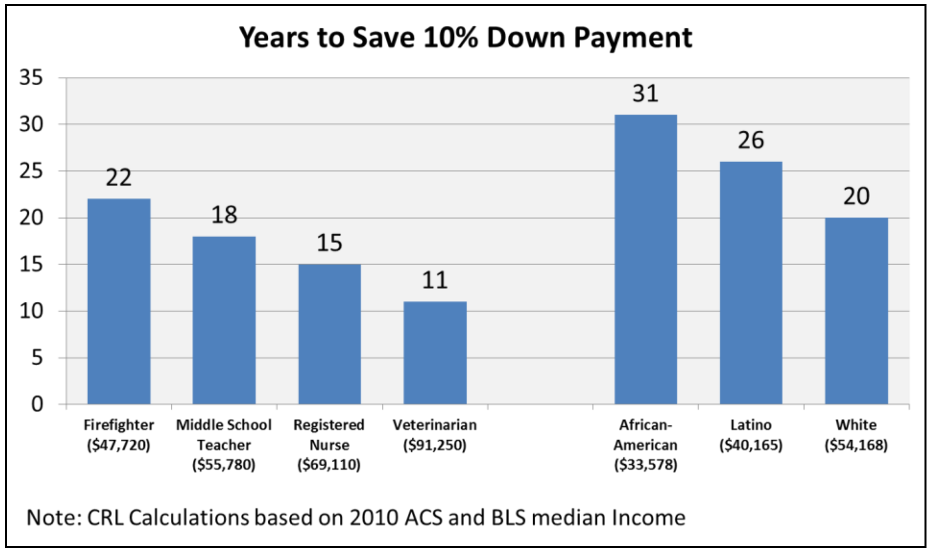
[5] http://www.federalreserve.gov/SECRS/2011/April/20110426/R-1411/R-1411_032311_69533_582721581887_1.pdf

non-QRM loans would have increased the cost to consumers by an estimated 75 to 125 basis points.[6] A higher down payment requirement would have exacerbated the costs further. As illustrated below, typical consumers might take 10 to 22 years to save for a 10 percent down payment (and nearly double the time for 20 percent).



Furthermore, as shown, the down payment requirement is more difficult to accumulate for borrowers of color.

2. CURRENT RULE: PROPER BALANCE

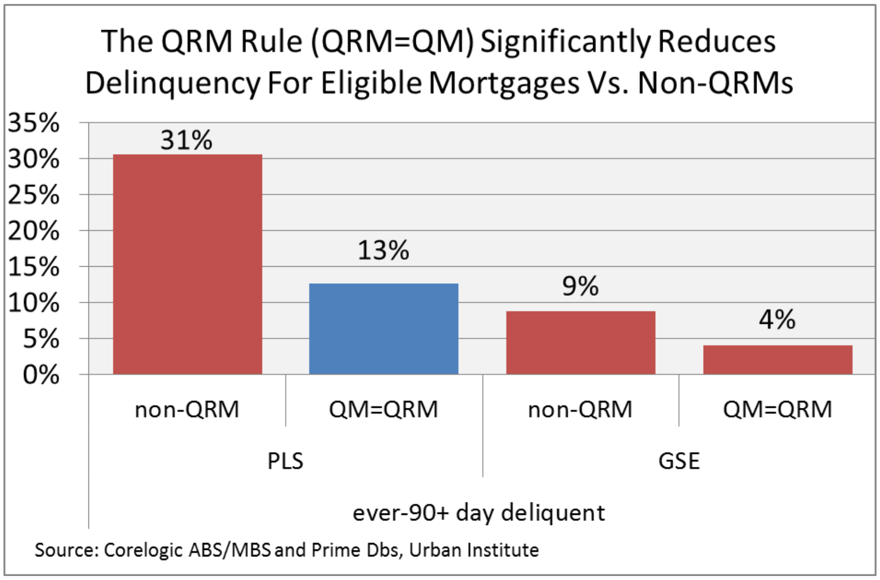
In August 2013, the six Federal Regulators published a revised proposed rule that would equate QRM with the soon-to-be implemented "ability-to-repay" Qualified Mortgage (QM) mortgage and underwriting standard issued by the CFPB.

Under the QM standard, which was finalized earlier this year and will take effect in 2014, loans must meet product features and underwriting standards to qualify. Borrowers must document the income used to qualify for a loan, and creditors must verify this and other important borrower qualifications. Borrowers cannot have debt-to-income ratios above 43 percent (unless it meets Fannie Mae, Freddie Mac, or Federal Housing Administration underwriting criteria for seven years or until GSE reform). Loans with risky product features most closely associated with the housing crisis such as negative amortization, interest-only payment features, or loans with amortizations longer than 30 years are excluded from the QM definition.

[6] See Zandi, Mark, Moody's Analytics. "Reworking Risk Retention." and "A Clarification on Risk Retention"; Goodman, Laurie. Amherst Securities, "The Coming Crisis in Credit Availability."; Jozoff, Mathew.(JP Morgan, "Securitization Weekly" December 11, 2009

In synchronizing both definitions, the revised rule encourages safe and financially prudent mortgage financing while also ensuring creditworthy homebuyers have access to safe mortgage financing with lower risk of default. In addition, consistency between both standards reduces regulatory burden and gives mortgage professionals much-needed clarity and consistency in the application of the important mortgage standards required pursuant to Dodd-Frank.

By equating the QRM with the QM, regulators have provided clear rules that allow for robust markets that meet the needs of creditworthy borrowers in a safe and sound manner. The new proposed QRM will reduce the risk of default and delinquency as illustrated below.



An Urban Institute[7] of mortgages in private label securities originated in or prior to 2013 found that the "ever 90-day delinquency rate" (loans that have ever been 90 days or more delinquent) for all loans that did not meet the re-proposed QRM standard was 30.6 percent.

The delinquency rate for purchase and refinance loans that met the new QRM proposal was nearly two thirds lower at 12.6 percent[8]. Loans purchased by Freddie Mac and Fannie Mae that met the re-proposed QRM standard had default rates of 4.1 percent as compared to 8.7 percent

[7] See blog post by Laurie Goodman and Ellen Seidman and Jun Zhu. "QRM, Alternative QRM: Loan default rates." http://blog.metrotrends.org/2013/10/qrm-alternative-qrm-loan-default-rates/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+MetrotrendsBlog+%28MetroTrends+Blog%29

[8] To account for prepayment penalties, the authors of the Urban Institute's study filtered from their QM definition mortgages with prepayment penalties incurred more than three years after origination, but they were unable to screen those mortgages with penalties that exceeded the limit of 2 percent of the amount prepaid. Likewise, data limitations precluded their ability to screen hybrid ARM products for a maximum rate reset in the first 5 years. Mortgages with these features may have been screened from the QM definition for other reasons, but some were likely included and thus estimates for delinquency rates should be considered conservative.

for mortgages that did not qualify for QM status. The study's authors point out that using an alternative measure of performance such as the 180-day delinquency rate or a measure of default would more accurately portray borrower behavior. The termination rates for PLS and GSE mortgages originated over this same period that were liquidated with loss (e.g. short sales, deeds in lieu transactions, and REO sales), REO, or for which no payment had been made in a 24 month period were 7.87 percent and 1.43 percent, respectively. Additional research completed by the UNC Center for Community Capital and the Center for Responsible Lending also shows reduced default rates for loans meeting QM product features.[9] Furthermore, a recent review by the UNC Center for Community Capital of several recent studies of performance for QM and non-QM loans found that these studies may vary in scope by time frame and mortgage features included, but all indicate that the QM standard significantly reduces risk, while providing broader access to credit than a QRM that includes a down payment requirement.[10]

The alignment of the QM definition with the QRM definition results in a construct that excludes risky product features and low or no-documentation lending that are closely correlated with increased probability of default. Appropriately, the definition of QM is not limited based on down payment. Although data show that the risk of default increases as down payments decrease, this does not necessitate the inclusion of down payment in QRM. Much like the private market operates today, investors can choose to package QRMs based on down payments if they choose to. Aligning QRM with QM allows market participants to assess and allocate risk within boundaries that will ensure stability to the market and a wide degree of credit access.

Recent market trends show that the QRM rule is unlikely to lead to a flood of zero down payment loans, as some critics of the proposed rule have suggested. Creditors currently are requiring borrowers to put significant amounts down in order to qualify for a loan before any risk retention rules are in effect yet. Both Fannie Mae and Freddie Mac recently raised their minimum down payments for most loans to five percent, and charge significant premiums and require mortgage insurance for those with down payments below 20 percent. The inclusion of a down payment requirement in the QRM rule is, therefore, unnecessary. Nonetheless, if a down payment requirement were included it would set a rigid standard not amenable to adjustment by individual securitizers based on experience and market trends. Moreover, it would give the government's imprimatur to an underwriting factor. That was not Congress's intent and would exclude far too many borrowers from QRM loans. As Laurie Goodman of the Urban Institute states, "The default rate for 95 to 97 percent LTV mortgages is only slightly higher than for 90 to 95 LTV mortgages, and the default rate for high FICO loans with 95 to 97 LTV ratios is *lower* than the default rate for low FICO loans with 90 to 95 percent LTV ratios. . . . For mortgages with an

[9] When defining the loans meeting QM product requirements, this research excludes loans with prepayment penalties and hybrid ARMs, among other non-QM product features, and finds a default rate of 5.8 percent for these QM compliant loans. See Roberto G. Quercia, Lei Ding, Carolina Reid, Balancing Risk and Access: Underwriting Standards for Qualified Residential Mortgagesˆ, Center for Community Capital and Center for Responsible Lending (Revised March 5,2012).

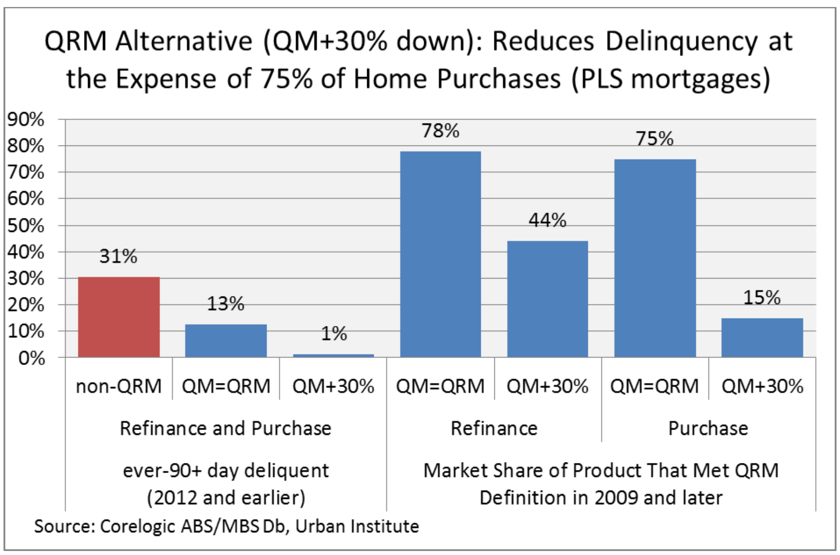
[10] Reid, Carolina and Roberto Quertia. "Risk, Access, and the QRM Reproposal." UNC Center for Community Capital. September 2013.

LTV ratio above 80 percent, credit scores are a better predictor of default rates than LTV ratios."[11]

3. ALTERNATIVE: A STEP BACKWARD

In the revised proposal, the regulators ask for comment on the merits of a adding a 30 percent down payment and credit requirements in addition to QM as an alternative for QRM. This proposal is a response to the overwhelming opposition voiced to the original proposed rule's requirement for a 20 percent down payment, as well as its proposed question of a 10 percent alternative.

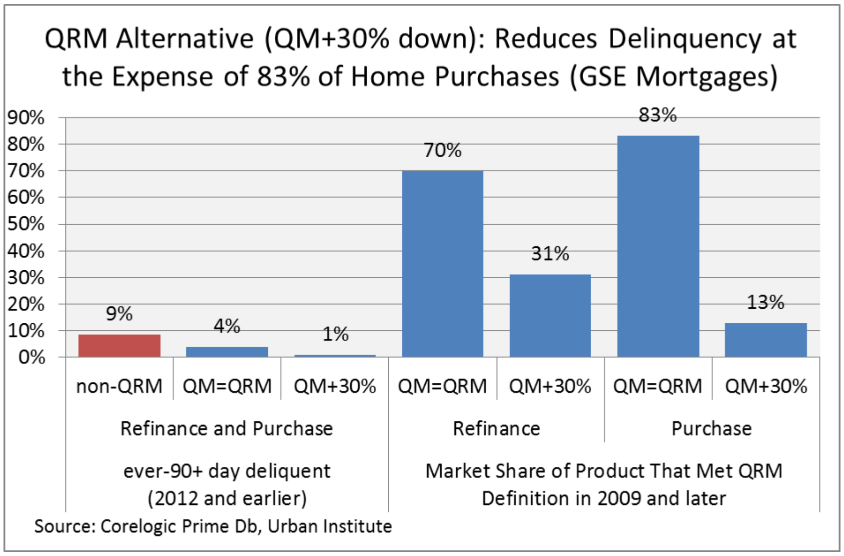
However, combining the definitions of QM and QRM together will make thorough underwriting and low risk mortgages the overwhelming standard in the market, without imposing down payment requirements above and beyond what lenders, insurers and investors will already continue to require. Large down payment requirements would raise the cost of credit [12] for a large pool of



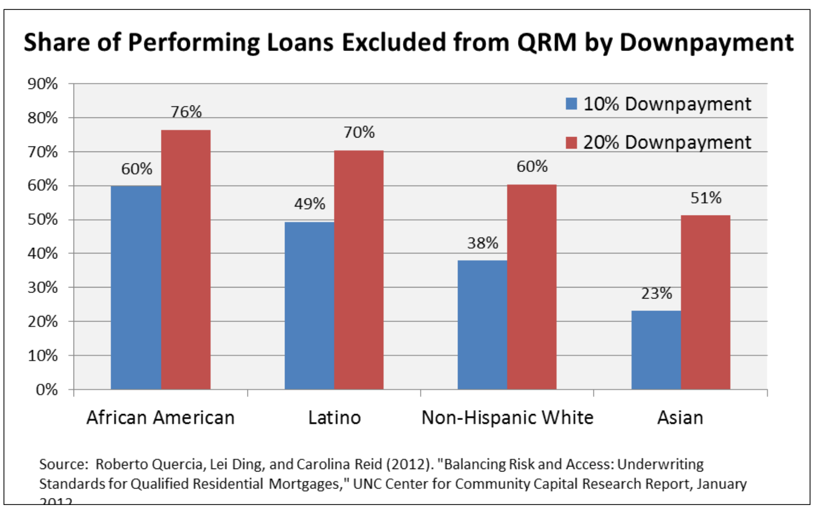
would-be homebuyers. As the graph above indicates, for mortgages in private label securities overlaying the 30 percent down payment and additional credit requirements on top of generally defining QRM as QM would reduce the risk of default for QRMs from 13 percent to one percent but it would significantly reduce the portion of the market that is QRM and exempt from the higher cost of risk retention, particularly on the purchase side which would decline from 75 percent to 15 percent.

[11] See Laurie Goodman and Taz George, Fannie Mae reduces its max LTV to 95: Does the data support the move?, The Urban Institute, MetroTrends Blog (September 24, 2013) (available at http://blog.metrotrends.org/2013/09/fannie-mae-reduces-max-ltv-95-data-support-move/).

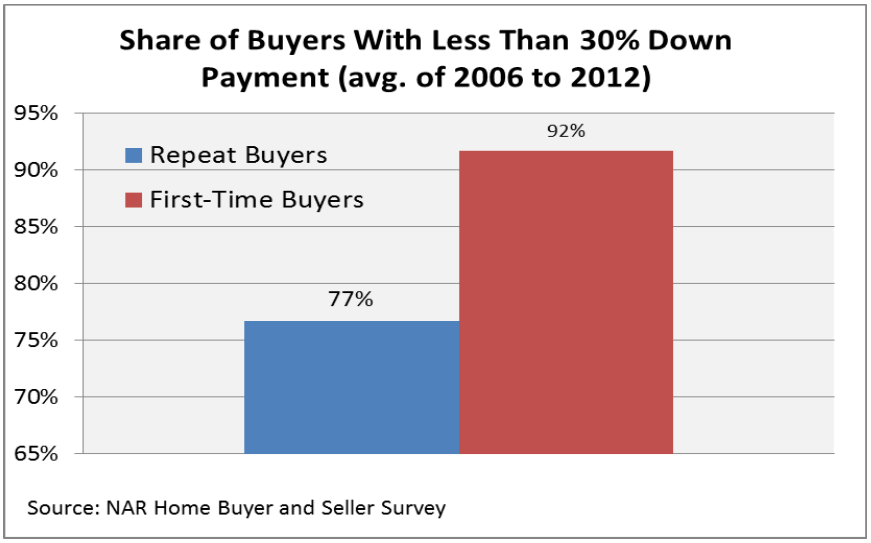
[12] *See* 78 Fed. Reg. 183, 58013 (September 20, 2013).



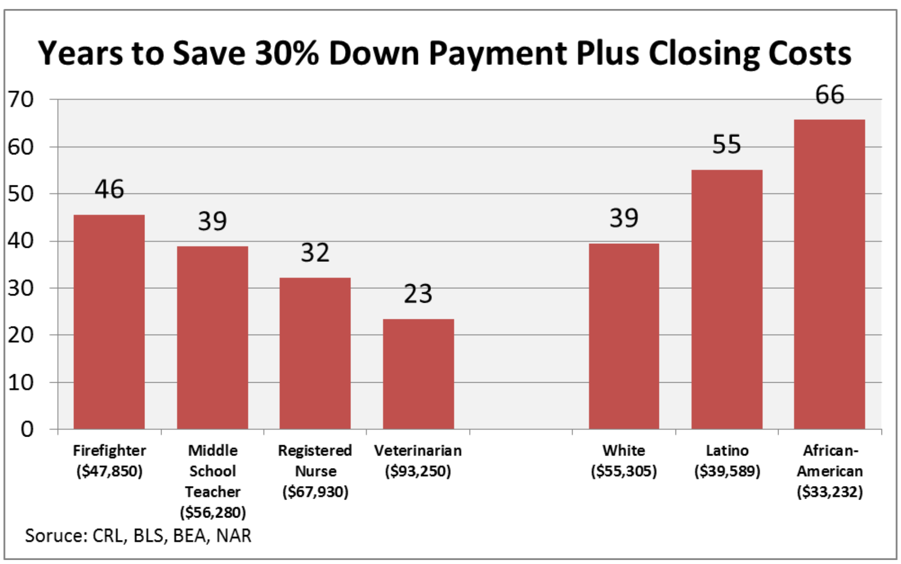
Likewise, as depicted above the delinquency rate for purchase and refinance originations purchased by the GSEs that met the alternative QRM requirement was 1 percent as compared to 4 percent for mortgages that just met the QM standard. However, the impact on market share of purchase mortgages originated after 2009 is more dramatic as the eligible share of the market falls from 83percent to 13percent percent.



Furthermore, as highlighted in prior research, the impact of a 10 percent or 20 percent down payment would be disproportionately borne by borrowers of color. Additionally, the impact would only increase for a 30 percent down payment. First time buyers are also constrained by down payments. On average, 92 percent of first time home buyers put down less than 30 percent between 2006 and 2012.



As indicated by the proposed rule, a non-minimal cost of up to 30 basis points would be passed onto the consumer under the proposed alternative. This cost could add up to billions of dollars on an annual basis, constraining consumer spending and homeownership, which would have implications for the greater economy. Alternatively, consumers might opt for a cheaper 100 percent guaranteed FHA alternative, which instead of drawing more private capital back into the mortgage market – a stated goal of the Administration – would have the unintended consequence of driving more activity to the government-insured program. For those potential buyers who choose to save the required down payment, the time to save is staggering as indicated in the chart below.



4. CONCLUSION

Should the proposed 'preferred' QRM rule be finalized, federal regulators would take a big step forward in strengthening the housing market and economy while also adequately addressing the root causes of the crisis (e.g. lapses in solid underwriting and by the introduction of complex loan products). The proposed alternative that requires borrowers to put down 30 percent to qualify for a QRM loan will constrain the availability of private mortgages for many creditworthy borrowers. Additionally, the high down payment requirement in the alternative proposal would add expense to otherwise high quality mortgages with lower down payments, restricting credit that will be needed to meet the housing credit needs of a rising generation of new households, without providing a commensurate increase in risk reduction for investors.

In summary, by synchronizing the definition of QRM with QM, the revised rule will encourage safe and financially prudent mortgage lending, while also creating more opportunities for private capital to reestablish itself as part of a robust and competitive mortgage market. Most importantly, it will help ensure creditworthy homebuyers have access to safe mortgage financing with lower risk of default.