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July 20, 2011

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Department of Housing & Urban Development
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Mr. John G. Walsh
Acting Comptroller
Office of the Comptroller of the Currency
Washington, DC 20219

Re: Interagency Proposed Rule on Credit Risk Retention

OCC: Docket No. OCC-2011-0002 regs.comments@occ.treas.gov
Federal Reserve: Docket No. R-1411 regs.comments@federalreserve.gov
FDIC: RIN 3064-AD74 comments@FDIC.gov
SEC: File Number S7-14-11 Rule-comments@sec.gov
FHFA: RIN 2590-AA43 RegComments@FHFA.gov
HUD: RIN 2501-AD53 via www.regulations.gov

Ladies and Gentlemen:

Thank you for the opportunity to comment on the "Credit Risk Retention" proposed rule as required by Section 941 of the Dodd Frank Act (P.L. 111-203). The National NeighborWorks® Association (NNA) respectfully puts forth our recommendations and concerns regarding this proposed rule, specifically the definition of a Qualified Residential Mortgage (QRM).

NNA is the national trade association of "NeighborWorks®" organizations: non-profits chartered by Neighborhood Reinvestment Corporation (d/b/a NeighborWorks® America) that create affordable housing and economic opportunities in America's urban, rural and suburban communities. Our membership includes over 190 NeighborWorks® and non-NeighborWorks® non-profit housing and

community development organizations in 49 states, Washington, DC and Puerto Rico.

Our members have a 30+ year history of facilitating lending to borrowers – including lower income families, borrowers with impaired credit and others who would not normally qualify for a conventional mortgage. NNA members typically serve the underserved, overlooked, and unfairly targeted.

Our members also provide quality pre-purchase homeownership counseling, financial fitness training and work with borrowers to improve their credit rating; improve their budgeting; and commit to a savings plan. Our local NeighborWorks organization members prepare borrowers to qualify for reasonably priced traditional mortgage loans so that they may achieve sustainable homeownership. It is this experience and expertise context that we provide the following comments on the following areas relevant to the proposed QRM definition:

1. Eligible loans
2. Borrower credit history
3. Down-payment requirement
4. Homeownership education and counseling
5. Default mitigation

Eligible Loans

NNA recognizes the deleterious effects of so-called "piggyback" loans that played such a large role in creating the housing and economic crises. However, we feel that not all secondary or subordinate loans are created equal or that by virtue of being secondary alone indicate a level of default potential. NNA members have been using various forms of public sector secondary loans including local and state government lending programs and federal lending programs created by HUD and the U.S. Department of Treasury CDFI Fund, that are usually low interest rate and/or forgivable, are high performing and that come with the appropriate level of homebuyer education and counseling to ensure sustainable homeownership. Therefore, we recommend that these public-sector type subordinate loans not be prohibited as part of the QRM eligible loan definition.

Borrower Credit History

NNA agrees with the proposed rule in that a credit score threshold should not be part of the QRM definition. A credit history demonstrating borrower behavior around debt is of significant importance, but a hard-lined credit score threshold is not. As noted in the discussion of QRM Eligibility Criteria the payment history is a much better indicator of ability to manage credit.

Down-Payment Requirement

NNA has serious concerns with the proposed down payment requirement offered in the rule. Requiring down payments of 10 or 20 percent is deemed by some as "getting back to basics."

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However, well-underwritten low down payment home loans have been a significant and safe part of the mortgage finance system for decades. The proposed QRM exemption imposes minimum down payments of 10 or 20 percent, and equity requirements for refinancing borrowers of 25 percent or 30 percent. NNA disagrees with these down payment requirements and offers an alternative (see below).

A 10 or 20 percent down payment requirement for the QRM means that even the most creditworthy and diligent first-time homebuyer cannot qualify for the lowest rates and safest products in the market. Even 10 percent down payments create significant barriers for borrowers, especially in higher cost markets (see Attachment 1). This will significantly delay or deter aspirations for home ownership, or require first-time buyers to seek government-guaranteed loan programs or enter the non-QRM market, with higher interest rates and potentially riskier product features without adding a commensurately greater degree of sustainability overall.

NNA feels that as a result of the proposed requirements, responsible consumers who maintain good credit and seek safe loan products will be forced into more expensive mortgages under the terms of the proposed rule simply because they do not have 10 or 20 percent in down payment or even more equity for refinancing. These mortgages will be more expensive for consumers because the capital and other costs of retaining risk will be passed onto them, if the private market chooses to offer loans outside of the QRM standard at all. In other words, the proposal unfortunately penalizes qualified, low-risk borrowers. The QRM should be redesigned to align with Congressional intent: encourage sound lending behaviors that reduce future defaults without harming responsible borrowers and lenders.

In addition, an analysis of loan performance data from CoreLogic's servicing databases on loans originated between 2002 and 2008 shows that boosting down payments in 5 percent increments has only a negligible impact on default rates, but it significantly reduces the pool of borrowers that would be eligible for the QRM standard. Table 1 and Attachment 2 show the default performance of a sample QRM definition based on the following attributes of loans: (Fully documented income and assets; fixed-rate loans, or 7-year or greater initial period ARMs; no negative amortization; no interest only loans; no balloon payments; 41 percent total debt-to-income ratio; mortgage insurance on loans with 80 percent or greater loan-to-value ratios; and maturities no greater than 30 years).

These sample QRM criteria were applied to more than 20 million loans originated between 2002 and 2008, and default performance is measured by origination year through the end of 2010. While loans with 5% down payments (or 5% equity) are certainly riskier than loans with 20% down/equity, the data in Table 1 and the chart in Attachment 2 show that low down payment loans that follow the strong underwriting and product standards outlined above can be exempted from risk retention without exposing investors or the broader housing market to undue risk. In other words, once you apply the strong underwriting standards in the sample QRM definition, moving from a 5 percent to a 10 percent down payment requirement reduces the overall default experience by an average of only two- to three-tenths of one percent for each cohort year – negligible at best. However, the increase in the minimum down payment from 5 percent to 10 percent would eliminate from 7 to 15 percent of borrowers from

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qualifying for a lower rate QRM loan – statistically significant. Similarly, increasing the minimum down payment even further to 20 percent, as proposed in the QRM rule, would amplify this disparity by knocking 17 to 28 percent of borrowers out of QRM eligibility, with only small improvement in default performance of about eight-tenths of one percent on average. This lopsided result compromises the intent of the QRM provision in Dodd-Frank, which is to assure clear alignment of interests between consumers, creditors and investors without imposing unreasonable barriers to financing of sustainable mortgages. The analysis also demonstrates that although important to the home buying transaction, down payments are not the best indicator of default in the underwriting process.

Table 1
Sample QRM Analysis: Impact of Raising Down Payments Requirements on Default Rates and Borrower Eligibility

Origination Year	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**
Reduction in default rate* by increasing QRM down payment **from 5% to 10%**	0.2%	0.1%	0.3%	0.3%	0.2%	0.5%	0.2%
Proportion of borrowers **not eligible** for QRM at 10% Down	7.6%	6.6%	9.0%	8.4%	10.9%	14.7%	8.4%
Reduction in default rate* by increasing QRM down payment **from 5% to 20%**	0.6%	0.3%	0.7%	0.8%	0.8%	1.6%	0.6%
Proportion of borrowers **not eligible** for QRM at 20% Down	19.2%	16.7%	23.0%	22.9%	25.2%	28.2%	20.7%

* Default = 90 or more days delinquent, plus in process of foreclosure, plus loans foreclosed.
Source: Data from CoreLogic, Inc. Analysis by Vertical Capital Solutions for Genworth Financial and the Community Mortgage Banking Project.

The bottom line is that requiring a 10 or 20% down payment as an overlay to already-strong underwriting standards produces only minor improvement in market-wide default performance, but has a major adverse impact on access by creditworthy borrowers to the lower rates and safe product features of the QRM. NNA believes this is an unnecessary trade-off that would have a disproportionate impact on moderate income and minority families and would undermine efforts to create a sustainable housing recovery.

Given all this, NNA and its membership believe in the importance of a borrower's financial equity in the home buying transaction and subsequent responsibility. Although we consider a 20%, 10% or even 5% down payment requirement to be too high and not play a role in the default potential of the home buyer, we do believe that a homeowner who has vested some financial commitment to the purchase of a home is important. We therefore offer that the QRM definition include a down payment requirement of 3% (down payment would be cash only from the homebuyer; no gift, governmental assistance, or other). We believe that although small, the cash contribution is behaviorally material and demonstrates homebuyer commitment to the transaction. Furthermore, we feel strongly that homebuyer education and counseling plays a significant role in the home buying process and so we offer that the QRM definition also include a 1% down payment requirement (again, down payment would be cash

only from the homebuyer; no gift, governmental assistance, or other) for any loan where the homebuyer has successfully completed homebuyer education and counseling as outlined by the National Industry Standards for Homeownership Education and Counseling.[1]

Homeownership Education and Counseling

Homeownership is the single largest source of wealth for most Americans. Academics have shown that homeownership is associated with improved child education, higher neighborhood real estate values, increased savings and even reduced teen pregnancy rates.[2] Most benefits of homeownership derive from stability: people become homeowners when they have less need to move frequently, and when they have sufficient income and assets to invest in their home and ultimately in their community. Unfortunately, today many borrowers are under great stress as adjustable mortgages increase and real estate scams proliferate. The benefits of homeownership can be lost to those who cannot afford expensive repairs or higher interest rates.

Homeownership education and counseling programs assist borrowers to make good choices in finding decent affordable homes. Qualified counseling programs cover topics ranging from understanding credit and savings; shopping for a mortgage; housing discrimination; home maintenance; and predatory lending. They encourage buyers to get vendors (attorneys, inspectors) who work for them rather than for the seller or broker, and they alert home buyers to common scams in the market. They provide the homeowners with a thorough and unbiased review of their financial situation and the types of mortgage products that may best suit their needs. Quality counseling can provide tools to determine whether homeownership is an appropriate housing option in the first place.

Pre-purchase education and counseling has been proven to help reduce mortgage delinquencies among homebuyers. Several studies that examined the effect of homeownership education and counseling on default rates found lower delinquency and default rates. One study of Freddie Mac's affordable lending program provides direct empirical evidence of the service's value, concluding that some types of pre-purchase education and counseling have a significant impact on mortgage delinquency rates. Based on a group of 34,000 loans from Freddie Mac's portfolio that received this service, 90-day delinquency rates were lowered by 19% for educated borrowers overall. Borrowers who received individual counseling experienced a 34% reduction in delinquency rates, while borrowers who received classroom and home-study education obtained 26% and 21% reductions in delinquency. [3]

NNA believes that homeownership education and counseling is an equally important factor in the underwriting process. NNA encourages you to consider incorporating homebuyer

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[1] National Industry Standards for Homeownership Education and Counseling, http://www.homeownershipstandards.org/standards
[2] Dietz, Robert D. "The Social Consequences of Homeownership" (Ohio State University: 2003).
[3] Harad, Abdighani and Peter Zorn, "A Little Knowledge is a Good Thing: Empirical Evidence of the Effectiveness of Pre-Purchase Counseling" (Harvard Joint Center for Housing Studies, 2003).

education and counseling into the (1) down payment requirement, as outlined above, and (2) as an additional requirement of the default mitigation eligibility criteria as outlined below.

Default Mitigation

Coordination between the borrower and the servicer in the case of delinquency is critically important in order to avoid future delinquencies and possible foreclosure. A homebuyer education and counseling agency is a trusted advisor that can help the homeowner get current, and help the servicer maintain a consistent cash flow. For example, we suggest that the final rule allow for a delinquent homeowner to receive post-purchase counseling: if a homeowner becomes 45 days delinquent (the delinquency term can be determined), then the servicer would refer that homeowner to a HUD-approved counseling agency (that also has adopted the National Industry Standards mentioned above) for post-purchase counseling. The servicer would absorb the cost of this counseling as we feel it is an appropriate and cost-savings service to the servicer.

An Urban Institute study on National Foreclosure Mitigation Counseling program's (NFMC) effectiveness concluded that the program was successful in both helping homeowners cure an existing foreclosure and reducing the likelihood that counseled homeowners would fall back into foreclosure:[4]

- During the first two years of the NFMC program, counseled homeowners were 70% more likely to get out of foreclosure and avoid a foreclosure sale than if they had not received NFMC counseling.
- On average, NFMC clients who received loan modifications in the first two program years reduced their monthly payments by $555; this is $267 more in reduction than if they had not received NFMC counseling.
- For clients counseled in 2008, NFMC counseling produced a 45% increase in the relative odds that a post-counseling modification would be sustained through 2009. The sustainability of modifications was greater than for homeowners without counseling because counseled homeowners received larger monthly payment reductions and counseling assistance with financial management.
- For clients counseled in 2008, the odds of making their loans current were 53% higher if they received counseling. Counseling produced payment reductions and financial planning assistance that helped move people from serious delinquency or foreclosure to a sustained cure of their mortgages.

[4] Mayer, Neil, Peter A. Tatian, Kenneth Temkin, Charles A. Calhoun. 2010. *National Foreclosure Mitigation Counseling Evaluation: Preliminary Analysis of Program Effects September 2010 Update.* Washington, D.C.: The Urban Institute. Prepared for NeighborWorks® America.

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Conclusion

Strong and sustainable national economic growth will depend on creating the right conditions needed for a housing recovery. The prohibitively high minimum down payment/equity requirements and other narrow provisions of the proposed QRM will impair the ability of millions of households to qualify for low-cost financing, and could frustrate efforts to stabilize the housing market. We applaud your monumental efforts to date, and for the equally monumental effort before you to strike the appropriate balance in weighing all of these vastly important issues.

Thank you for your consideration of these comments and for your efforts on behalf of consumers and the mortgage markets. Please feel free to contact our Executive Director, David C. Brown, for any clarification of these comments.

Sincerely,

Lou Tisler
Board President

David C. Brown
Executive Director

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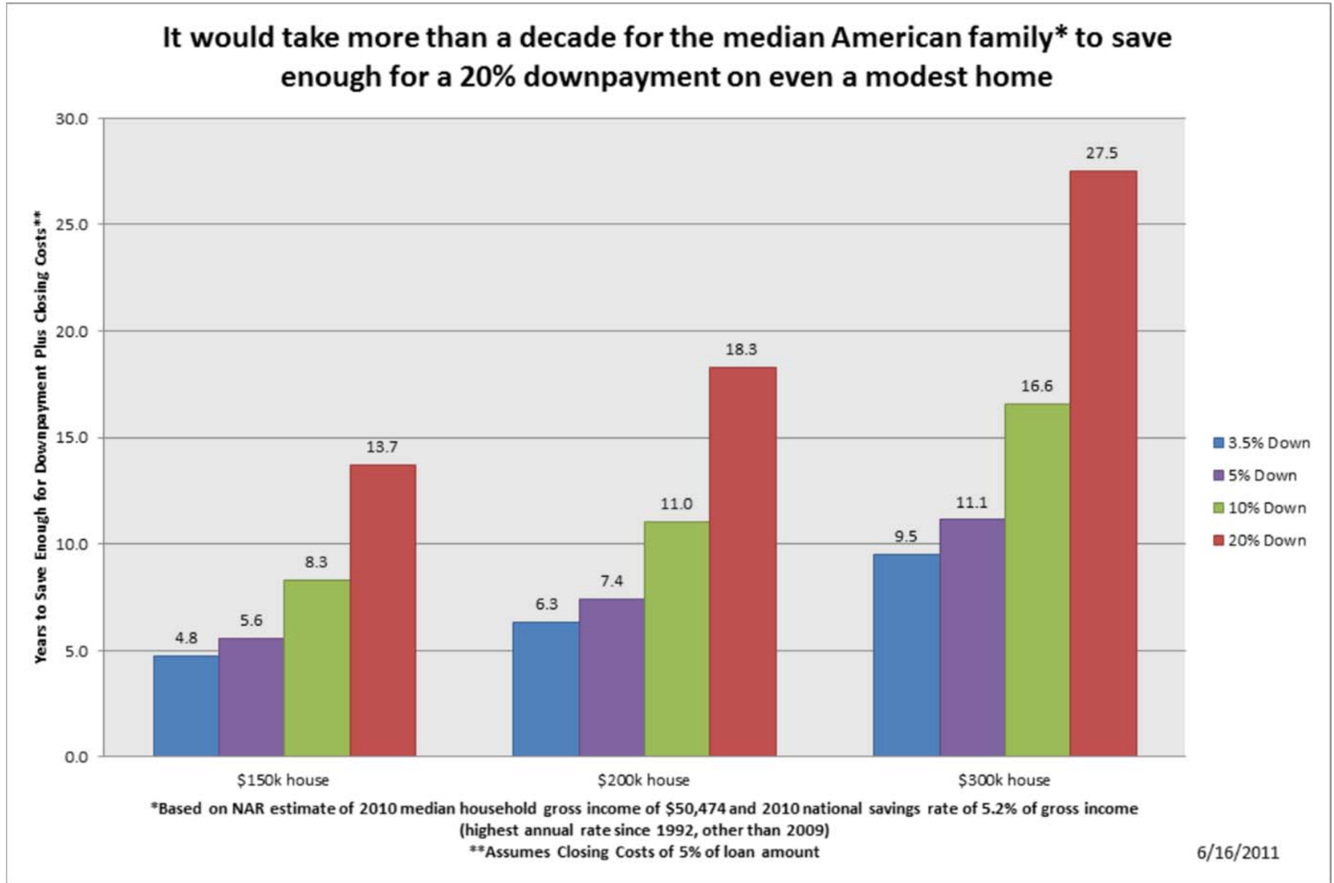
ATTACHMENT 1



Source: National Association of REALTORS®

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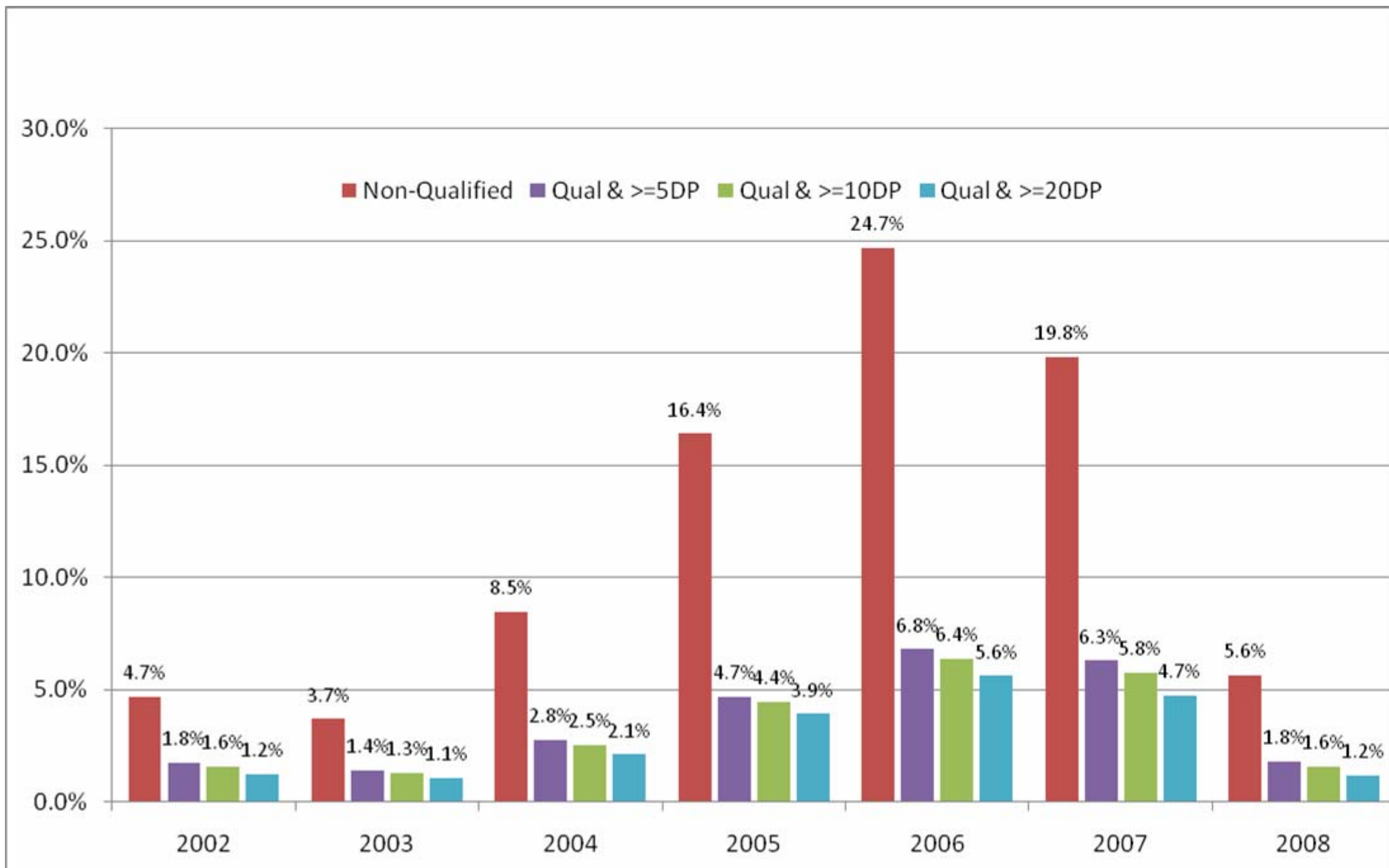
ATTACHMENT 2

Low Down Payments not a Major Driver of Default when Underwritten Properly
The red bar shows the performance of mortgages originated from 2002 – 2008 that do not meet all of the standards and features outlined below in the note. The other bars show the performance of mortgages that meet all of the sample QRM product and underwriting features. Within this second group of "QRM" bars, the blue bar shows how loans performed that met all these standards, plus had a 20 percent down payment or more; the green bar shows loans that the met all the standards plus had a down payment of at least a 10%; the purple bar shows these loans with at least 5% down. Naturally, loans with strong standards and at least 20% down performed best. However, the chart also shows clearly that lower down payment loans can be included in a strong QRM framework without exposing investors or the broader market to excessive risk.

IMPACT OF INCREASING MINUMUM DOWNPAYMENT ON DEFAULT RATES FOR LOANS THAT MEET SAMPLE QRM STANDARD



Source: Vertical Capital Solutions of New York, an independent valuation and advisory firm conducted this analysis using loan performance data maintained by First American CoreLogic, Inc. on over 30 million mortgages originated between 2002 and 2008. Note: Default rates are by origination year, through the end of 2010. The sample QRM in this analysis is based on fully documented income and assets; fixed-rate or 7-year or greater ARMs; no negative amortization; no interest only loans; no balloon payments; 41% total debt-to-income ratio; mortgage insurance on loans with 80% or greater loan-to-value ratios; and maturities no greater than 30 years.

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