Proposed Qualified Residential Mortgage Rule

Impact on Affordable Housing and Minority Populations

7/15/2011

International Association of Official Human Rights Agencies
National Association of Human Rights Workers
Center for Community Building and Neighborhood Action
Chicago Area Fair Housing Alliance
Colorado Cross-Disability Coalition
Community Enterprise Investments Inc
Community Legal Services of Mid-Florida
Community Reinvestment Association of North Carolina
H K on J Coalition
Lewis Associates
Long Island Housing Services, Inc
Lumbee Revitalization and Community Development, Inc.
Michigan Community Reinvestment Coalition
North Carolina Institute for Minority Economic Development
North Carolina State Conference of Branches of the NAACP
Northwest Fair Housing Alliance
Oak Park Regional Housing Center
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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 2590-AA43 via www.regulations.gov

Ladies and Gentlemen:

We, the undersigned fair housing and civil rights advocates submit this letter as our formal comment on the proposed risk retention rule required by Section 941 of the Dodd Frank Act (P.L. 111-203).

The Coalition for Sensible Housing Policy has expressed deep concerns about the unduly narrow definition of the Qualified Residential Mortgage (QRM). We concur with the opinions expressed by the coalition. We are particularly concerned about the consequences of establishing a high down payment requirement of 10% or 20% (or more for refinances) unnecessarily restrictive debt-to-income ratios, as well as rigid credit history requirements on minority households, specifically, its effects on African-American and Hispanic households. Without significant changes to the narrow QRM definition, we believe the rule would raise the cost of mortgages and reduce access for creditworthy borrowers, while frustrating the nation's fragile housing recovery.

In summary, we oppose the QRM rule as proposed because it will have an adverse and disparate impact on minority household's ability to obtain credit regardless of income when less harmful alternatives exists that would satisfy the intended purpose of the QRM. The current racial segmentation of the financial market is not caused by "benign factors", but as a result of past government and private sector discriminatory actions. By law, federal housing policy including the QRM must affirmatively further fair housing; therefore, the QRM must provide policies and procedures to ensure that credit is provided in an inclusive fashion that addresses the effects of past discriminatory actions. The following comments highlight the shared concerns our organizations have with the proposed rule.[1]

[1] These comments were prepared by S J Adams Consulting, a full service civil rights research and consulting firm located in Durham, NC.

There is a great deal of debate over the appropriate role of government in financial and housing markets. Recent legislation and proposed regulatory reforms may have profound trans-generational impact on minority populations. Currently the proposed rule regarding Qualified Residential Mortgages effectively prices many borrowers, especially African Americans, Hispanic and female heads of households out of the market and may be in violation of the Federal Fair Housing Act, as amended and the Equal Credit Opportunity Act.

There is concern that the proposed QRM rule may impose policies, practices or procedures in evaluating or in determining creditworthiness in a manner that may violate fair housing laws on the basis of race, color, sex, or national origin.[2]

There is concern that this proposed rule may determine the type of loan or other financial assistance to be provided and are fixing the amount, interest rate, duration or other terms for a loan or other financial assistance in a manner that adversely impacts minority families and neighborhoods.[3]

There is concern that the proposed rule may influence the way that loans and other debts or securities are pooled and packaged in a manner that discriminates or adversely impacts minority communities and minority borrowers.[4]

And finally there is concern that the proposed rule restricts or attempts to restrict the choices of minority borrowers by policies and practices that tend to perpetuate segregated housing patterns, and discourage or obstruct choices in communities, neighborhoods or developments.

Why the QRM will hurt minorities regardless of income.

The regulatory agencies are obligated to review and consider the historical discrimination in housing by both government policies and private redlining of neighborhoods as well as the impact the proposed QRM rules will have on individuals living in predominately minority neighborhoods without access to mainstream mortgage lending.

According to the Center for Responsible Lending "low down payment home loans have been a significant and safe part of the mortgage system for decades. Between 1990 and 2009, more than 27 million mortgages were made with low down payments that did NOT carry the risky features found in subprime loans".

The proposed QRM requirement of a 20% down payment would have a devastating effect on all Americans 70% of whom would be unable to meet this new standard. The effect would be disproportionally greater on African American and Latino families making homeownership unattainable for most households of color.

The impact of the alternative 10% down payment would be if you can imagine, MORE catastrophic for African American and Latino households. A 10% down payment would provide the majority of middle income white families the opportunity for homeownership while permanently preventing all but the wealthiest African American and Latino households from attaining the dream of homeownership. High income African Americans have fewer assets than middle income white families, and the current recession has exacerbated and accelerated the wealth gap between the two groups.

A recent survey conducted by Dr. Boyce Watkins for Your Black World Coalition, found that 38.3 percent of African American respondents had lost a job at some point during the last three years. More significantly,

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[2] 24 CFR 130 (b)(1)
[3] 24 CFR 100.130 (b)(2)
[4] 24 CFR 100.125 (b)(2)

eighty-eight percent of those respondents who were able to find employment were unable to find another position of equal or higher pay. Respondents were then asked, "Have you experienced eviction or foreclosure at any point over the last three years?" In response, over one-fourth (25.8%) of all respondents said that they'd gone through either eviction or foreclosure at some point during the last three years. Twenty-three percent of the respondents with a graduate degree also experienced either eviction or foreclosure. The survey had 917 respondents sixty- seven percent of whom were college educated.[5] "The Your Black World audience tends to be older and more educated than the general population… the poll results are indicative of general downward mobility of the African American community, given that most of those who lost their jobs were unable to find equivalent employment."[6]

African Americans and other minorities have also seen the few assets they have through pensions decline sharply. In a study conducted by the Institute on Assets and Social Policy, Tatiana Meschede documents that minorities have experienced a disproportionate share of economic set-backs. "From 1979 to 2006, African-American private sector workers saw their overall pension coverage go down from 45.8 percent to 37.5 percent. Latinos have the lowest coverage levels and experienced the most significant decline in coverage in the same period from 38.2 to 22.6 percent (down by 15.5 percentage points). In contrast, white workers experienced a much smaller decline of 3.7 percent to 48.5 percent coverage."[7] This means that all households but particularly minority households have fewer assets set-aside for retirement and without the equity built overtime by homeownership face a future that is financially insecure.

According to a study conducted by Thomas Shapiro the racial wealth gap increased by $75,000, from $20,000 to $95,000 over a twenty-three year period beginning in 1984. [8]

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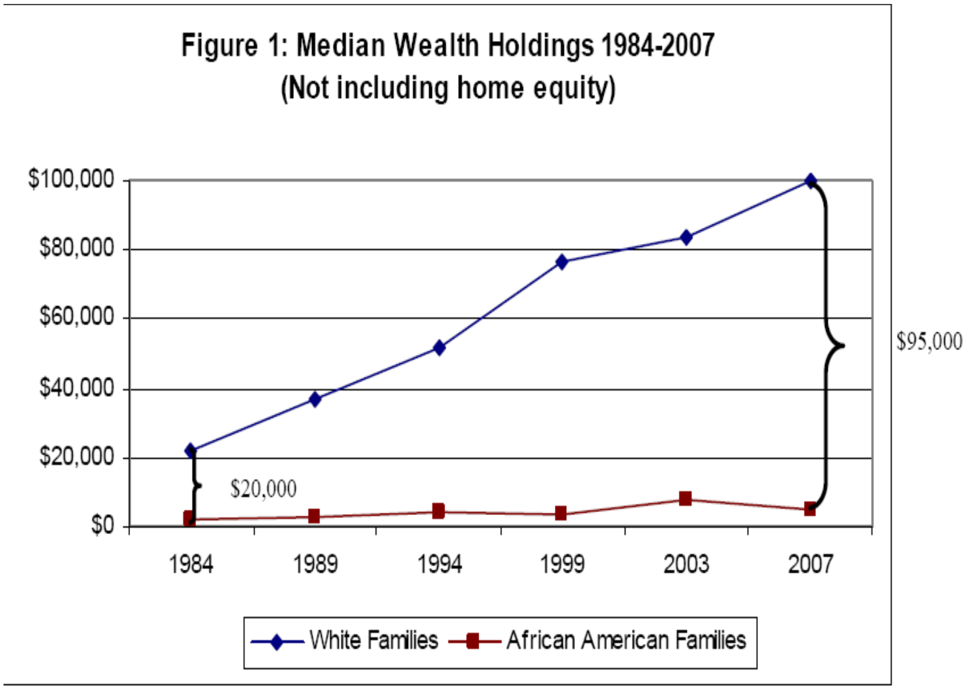
[5] *Your Black World Blog.* http://yourblackworld.com/2011/06/15/survey-38-of-african-americans-have-lost-job-in-last-three-years/ . Accessed June 16, 2011.

[6] IBID. Dr. Boyce Watkins is a Finance Professor at Syracuse University and founder of the Your Black World Coalition.

[7] Meschede, Tatjana, et al. 2010. "Severe Financial Insecurity among African American and Latino Seniors" *Institute on Assets and Social Policy. Demos*

[8] Shapiro, Thomas, Tatjana Meschede, and Laura Sullivan 2010. "The Racial Wealth Gap Increases Fourfold". *Institute of Assets and Social Policy Research and Policy Brief May 2010.*



The Heller School for Social Policy and Management, Brandeis University

"Figure 1 underscores the dramatic growth in financial assets (excluding home equity) among white families from a median value of $22,000 to $100,000, while at the same time showing that African-Americans saw very little increase in assets (in real dollars)."[9]

The study finds that the growth of the racial wealth gap significantly affects the economic future of American families. The study confirms the downward mobility of the African American community, Shapiro concludes that African Americans who have achieved high incomes are not able to accumulate wealth at the same pace of their peers in the workforce, translating into very different life chances. The proposed QRM would exponentially increase the wealth gap and render future generations of Americans particularly minority families to an economically insecure future.

These findings are supported in a new study by the Pew Research Center released July 26, 2011. Pew reported that "[a]djusted for inflation, the median wealth, or net worth, of U.S. households fell from $96,894 in 2005 to $70,000 in 2009, a drop of 28%. The precipitous decline in wealth was not evenly distributed across groups. Minority households—Hispanics, blacks and Asians—experienced far steeper declines than white households."[10]

According to Pew, the median value of directly held stock and mutual funds declined the most for Hispanics and African Americans. Hispanics who owned stocks and mutual funds lost 32 percent of their value from 2005 to 2009. Losses for African American stockholders plummeted 71 percent during the same period.

[9] Shapiro, et al.
[10] Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics." Pg. 15. Last modified July 26, 2011. http://pewsocialtrends.org/files/2011/07/SDT-Wealth-Report_7-26-11_FINAL.pdf

Meanwhile, Asians experienced a 19 percent increase in their holdings, and whites saw the value of their holdings decline by a mere 9 percent.[11]

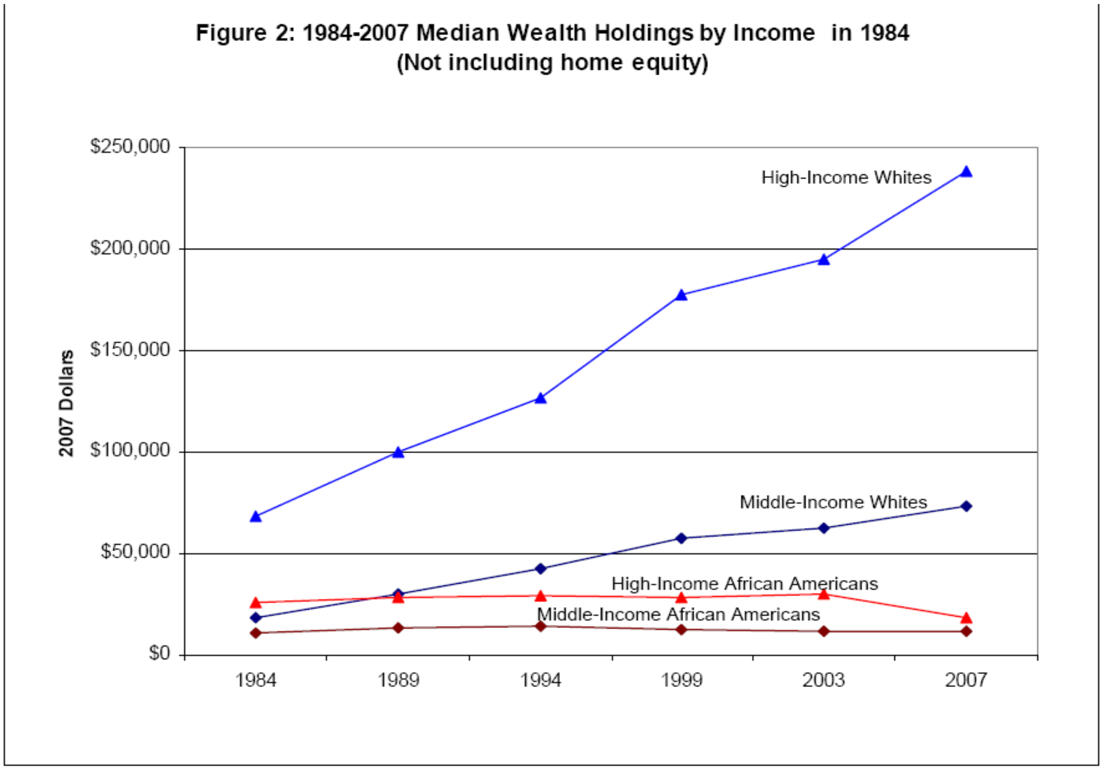


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Figure 2 from this same study highlights two important findings.

1. The great wealth produced during this period accrued primarily to the highest income whites, and
2. Job achievements do not adequately predict family wealth holdings given the huge disparities in wealth between whites and blacks in the same income categories. While those who begin the period with roughly similar incomes would be expected to have the same opportunities to build wealth, the differences in accumulation by race remain stark even accounting for income.[12]

According to the Pew research, inflation-adjusted median wealth fell by 66 percent among Hispanic households, 54 percent among Asian households and 53 percent among black households between 2005 and 2009. During the same time period, the study found white wealth fell by only16 percent. Further, Pew found that "[p]lummeting house values were the principal cause of the recent erosion in household wealth among all groups, with Hispanics and Asians hardest hit by the meltdown in the housing market."[13]

[11] Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics." Pg. 20. Last modified July 26, 2011. http://pewsocialtrends.org/files/2011/07/SDT-Wealth-Report_7-26-11_FINAL.pdf

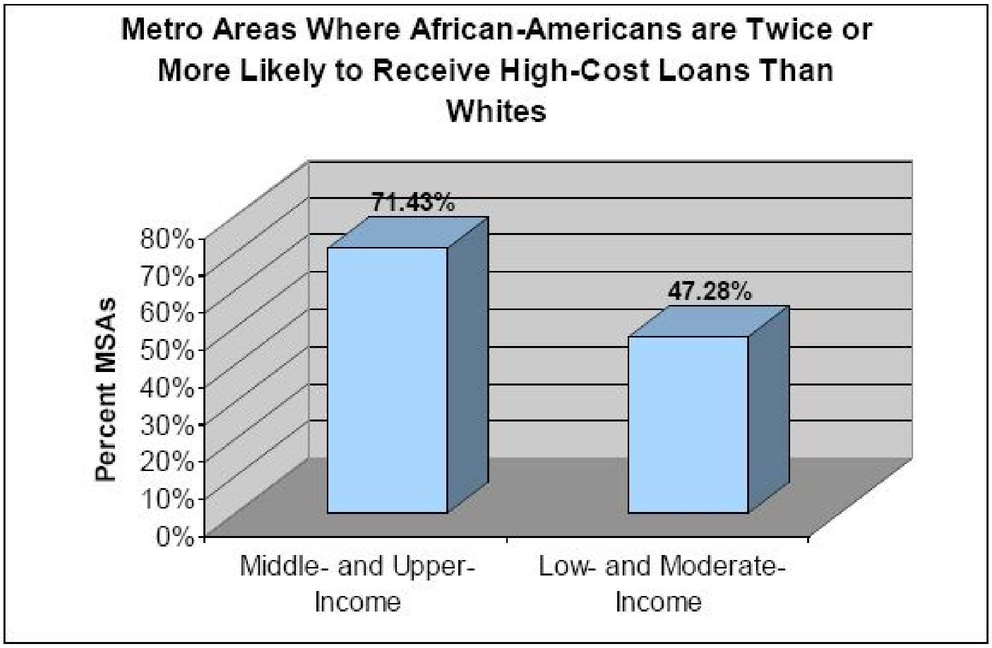
[12] Shapiro, et. al.

[13] "Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics." Last modified July 26, 2011. http://pewresearch.org/pubs/2069/housing-bubble-subprime-mortgages-hispanics-blacks-household-wealth-disparity

Many studies have documented that the majority of subprime borrowers qualified for conventionally underwritten loans.

Upper income African American and Hispanic households lost significant wealth from the period of 2003-2007 as a result of discriminatory and abusive subprime loans. Upper income African American and Hispanic borrowers were twice as likely to have subprime loans as white borrowers. [14]

Several studies conducted by the National Community Reinvestment Coalition as part of their "Disparities in Lending Series" have shown that "[m]iddle-class or upper-class status does not shield minorities from receiving high-cost loans." [15] NCRC observed that racial differences in lending increase as income levels increase, making middle- and upper-income minorities *more likely* to receive high-cost loans than low- and moderate-income minorities are, when compared to low- and moderate-income and middle and upper-income whites.



National Community Reinvestment Coalition

Middle and upper- income African-Americans were twice or more likely as middle and upper- income whites to receive high-cost loans in 71.4 percent of the metro areas examined in this report, while low- and moderate-income African-Americans were twice or more likely as low- and moderate-income whites to receive high-cost loans in just 47.3 percent of the metro areas during 2006.[16]

The evidence of lending disparities climbing with income levels is even more dramatic when comparing middle and upper- income Hispanics to low- and moderate-income Hispanics. Middle and upper- income Hispanics were twice or more likely as middle and upper- income whites to receive high-cost loans in 22.5%

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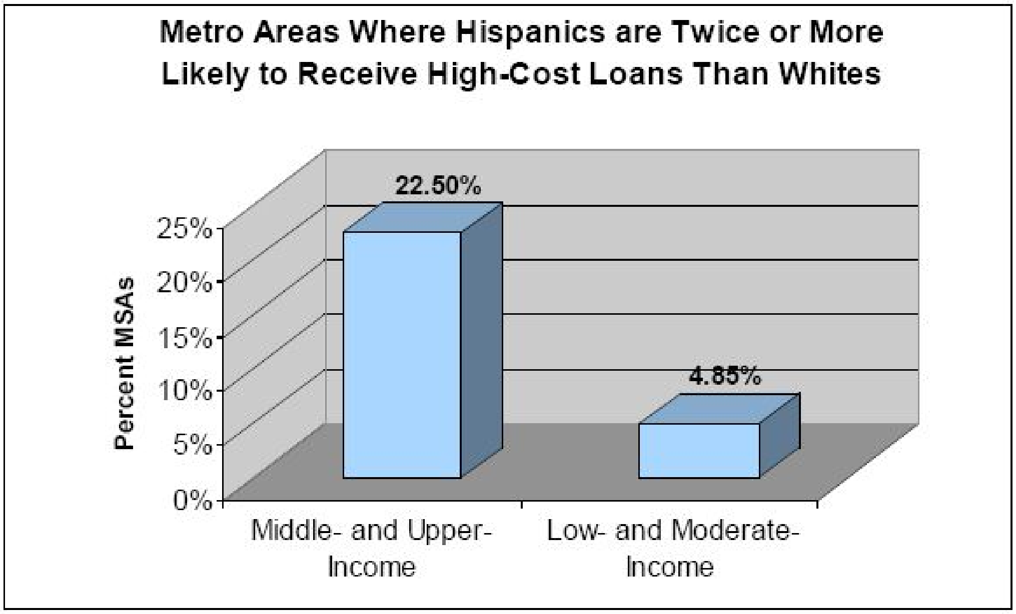
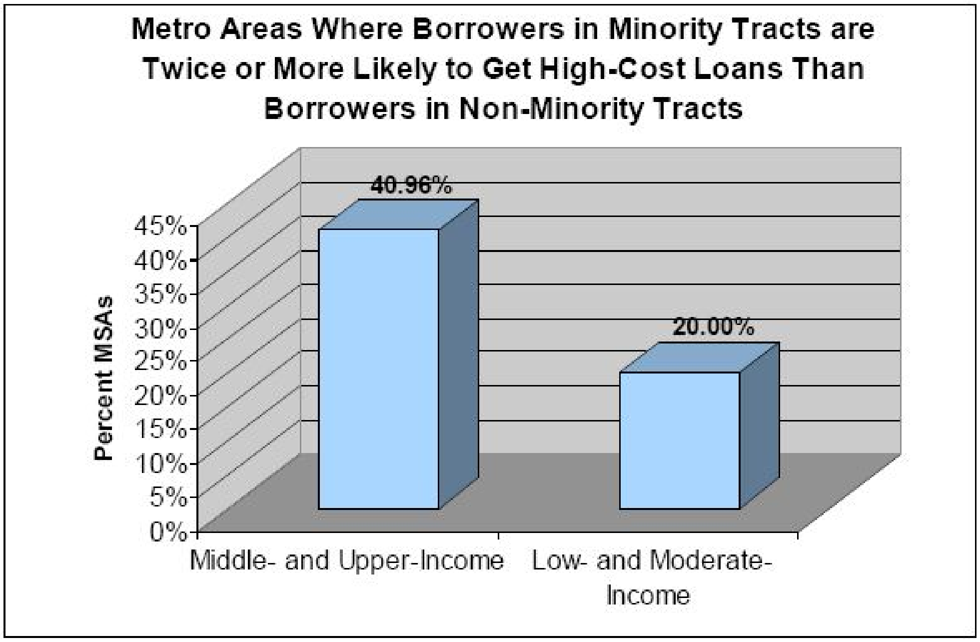
[14] Jayasundera, Tamara, et.al. 2010. "Mortgage Lending Disparities in the Washington, DC Metropolitan Area". NCRC Disparities in Lending Series.
[15] National Community Reinvestment Coalition. 2009. "Income is No Shield against Racial Differences in Lending II: A Comparison of High Cost Lending in America's Metropolitan and Rural Areas."
[16] IBID.

percent of the metro areas examined compared to just 4.8% for low- and moderate-income Hispanics. This means that middle and upper-income Hispanics were 5 times more likely to receive a high-cost loan than low to moderate income Hispanics. [17]



National Community Reinvestment Coalition



The legislative history of Dodd-Frank is clear that the Congress did not intend for down payment to be a factor in the QRM. The inclusion of down payment as a factor will have trans-generational consequences for African American and Latino families. Young minorities will be unable to rely upon parental support and

[17] IBID.

inheritances for college and home purchases because of the economic instability faced by their parents and grandparents as a result of continued and unaddressed discrimination in the financial market. As a result the next generation of African Americans and Latinos will start their new careers with significantly higher debt burdens and fewer assets than their white peers.

The adoption of this proposed rule without the required impact analysis on minority communities when the long-term generational harm to minority families and the future stability of the American economy is so clear, would be a breach of duty.

The proposed QRM requirement of 25% equity in order to refinance a home coupled with stringent credit requirements make it nearly impossible for homeowners to refinance. Currently, less than 52% of Americans have 25% or more equity in their home and that number is much lower for minority families.

The impact of the proposed rule on existing homeowners with mortgages is also harmful. Based on data from CoreLogic's quarterly "negative equity" analysis, nearly 25 million current homeowners would be denied access to a lower rate QRM to refinance their home because they do not currently have 25 percent equity in their homes (Table 2). Many of these borrowers have paid their mortgages on time for years, only to see their equity eroded by a housing crash and the severe recession. Even with a 5 percent minimum equity standard, almost 14 million existing homeowners with mortgages – many undoubtedly with solid credit records – will be unable to obtain a QRM. In short, the proposed rule moves creditworthy, responsible homeowners into the higher cost non-QRM market.[18]

The proposed rule will make it impossible for minority homeowners to refinance their homes or to obtain home improvement loans that will assist them as they prepare for retirement. Pew found that the median level of home equity held by Hispanic homeowners declined by half -- from $99,983 to $49,145 a 51 percent decline in value. Median home equity for Asian homeowners dropped from $219,742 in 2005 to $150,000 in 2009, a loss of 32 percent. Pew attributed these declines to the fact that a disproportionate share of Hispanics live in California, Florida, Nevada and Arizona, which are the states experiencing the steepest declines in housing values. Losses for black and white homeowners were less severe but substantial in light of the proposed rule. Black homeowners lost 23% of their home equity, from $76,910 in 2005 to $59,000 in 2009 while median home equity for white homeowners eroded 18%, from $115,364 to $95,000.[19]

Couple these losses with the aging of our population and the 25 percent equity requirement under the proposed rule becomes unconscionable. Meschede documents "that home equity is the largest asset of seniors. Approximately half of all seniors [had] median home equity worth $90,000 or more (pre-2008 housing values). A substantial proportion of senior households of color (31 percent of African-American and 42 percent of Latino seniors) are secure with respect to home equity. "[20]

Unfortunately, the impact of the current housing crisis has reduced asset holdings, negatively impacting the largest asset of most retired households. "The effects of current declines in housing prices on economic stability for older households will be seen many years down the road. The number of older Americans who are filing for bankruptcy has now reached record levels, an indication of the impending crisis for future retirees."[21] A requirement that existing homeowners have 25% equity means that the majority of minority homeowners will have no access to their equity.

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[18] Center for Sensible Housing Policy."Proposed Qualified Residential Mortgage Definition Harms Creditworthy Borrowers While Frustrating Housing Recovery as Submitted to the Federal Regulators on July 11, 2011."
[19]"Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics." Last modified July 26, 2011. http://pewsocialtrends.org/files/2011/07/SDT-Wealth-Report_7-26-11_FINAL.pdf
[20] Meschede, Tatjana, et al.
[21] IBID.

Racial disparities associated with other criteria also negatively impact wealth building for minority homeowners. For example, a study by Ashlyn Aiko Nelson found on average, African Americans and Hispanics face higher home purchase and mortgage costs than similarly situated white households on the basis of credit score.[22]

Nelson calculated mean consumption levels for hypothetical White, Asian, Black, and Hispanic households possessing average within group income levels and a 650 credit score, and then simulated changes in housing consumption associated with a 50-point increase or decrease in the credit score.

The study found that the sensitivity of home value consumption to credit score varied by race. While a credit score increase from 650 to 700 was associated with an 8 percent increase in home value for white households, the same credit score increase was associated with only 5 to 6 percent increases in home value for Asian, Black, and Hispanic households. Similarly, increases in credit score were associated with a 6.5 percent increase in average district home value for white households, but only 1.6 to 2.1 percent increases in average district home value for minority households.[23]

The study found that with increases in credit score, Black households lived in more segregated areas with higher concentrations of Black and Hispanic households, with less desirable public amenities (including lower school quality measures) than similarly situated white and other minority households.[24]

A study by Gregory Squires found that Metropolitan areas with higher education levels have a lower proportion of high-cost loans. [25] While education seems to be a powerful predictor of who will receive a high cost loan, this predictive power does not hold true for upper income African Americans.

It is imperative that the regulators look into the impact of the proposed QRM on upper income African Americans who play a critical role in sustaining the African American micro-economy, an economy by the way that contributed $957 billion to the general economy representing 14.1 percent of the nation's total buying power in 2010.[26] "Despite the severe impact of the 2007-2009 recession, black's economic clout will continue to energize the U.S. consumer market. The Selig Center projects that the nation's black buying power will rise from $316 billion in 1990 to $600 billion in 2000, to $957 billion in 2010, and to $1,247 billion in 2015."[27]

Why the segmentation of the market where minorities are disproportionately impacted by the QRM is a result of past government and private sector discriminatory actions.

There is concern that the proposed QRM perpetuates racial market segmentation and racial discrimination. The proposed rule may result in a dual credit and financial services market that results in minorities having fewer banking options and higher barriers to credit; relegates African Americans and Latinos to a second-class status exacerbated by patterns of segregation.

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[22] Nelson, Ashlyn Aiko. 2010."Credit Scores Race and Residential Sorting." *Journal of Policy Analysis and Management* (Association of Public Policy Analysis and Management) 29, no. 1: 39-68
[23] IBID.
[24] IBID.
[25] Squires, Gregory, Derek Hyra and Robert Renner. 2009. "Segregation and the Subprime Lending Crisis." *Economic Policy Institute Briefing Paper #244*.
[26] Humphreys, Jeffrey M. 2011."African American, Native American, Asian and Hispanic Buying Power in North Carolina: Estimates for 1990-2010 & Projections through 2015." North Carolina Institute on Minority Economic Development.
[27] IBID.

There is evidence of a disproportionate impact of foreclosures on minority homeowners and neighborhoods similar to what happened at the end of the great depression. The National Fair Housing Alliance recently released a report documenting the discriminatory manner in which banks and financial institutions maintain REO property based on the racial composition of the neighborhood. The impact of this on minority neighborhoods cannot be underestimated. This neglect brings down housing values for the remaining homeowners in impacted communities making it more difficult to refinance their homes for home repairs and maintenance.

In 2008, two former Secretaries of the U S Department of Housing and Urban Development Henry Cisneros, a Democrat, and the late Jack Kemp, a Republican, chaired a seven-member commission known as the National Commission on Fair Housing and Equal Opportunity held several hearings across the country as part of the fortieth anniversary of the federal fair housing act the Commission issued a report in December 2008 entitled "The Future of Fair Housing".

The Commission found that "[t]he hearings exposed the fact that despite strong legislation, past and ongoing discriminatory practices in the nation's housing and lending markets continue to produce levels of residential segregation that result in continued disparities between minority and non-minority households in access to good jobs, quality education, homeownership attainment and asset accumulation. This fact has led many to question whether the federal government is doing all it can to combat housing discrimination. Worse, some fear that rather than combating segregation, HUD and other federal agencies are promoting it through the administration of their housing, lending, and tax programs."[28]

There is strong evidence in support of this contention. Despite the fact that fair lending screening using HMDA data at the level of individual lenders suggested that about 2 percent of the 8,853 lenders covered by HMDA exhibited a statistically significant difference in the incidence of higher-priced loans between African American and Hispanic borrowers and non-Hispanic white borrowers, only 2 referrals were made to DOJ in 2005 and 5 referrals were made in 2006[29]. In fact, from 2001 through 2008 the Civil Rights Division of the Department of Justice received only 30 referrals from the financial regulators involving discrimination based on race or national origin.[30]

The lack of referrals to DOJ may reflect the financial regulatory agencies general belief that "[t]he primary responsibility for ensuring compliance with fair lending laws falls on lenders. HMDA data may help lenders analyze and monitor their lending patterns."[31]

Further, despite numerous comments and complaints by civil rights organizations and consumer advocates, the financial regulatory agencies proffered dismissive explanations blaming the victims for the discriminatory conduct. "The disproportionate borrowing by non-Asian minorities from higher-priced lenders could occur because of *often benign factors such as a "segmented" marketplace* [emphasis added] in which different lenders offer different products and borrower groups self-select the product-lender combination that best matches their credit or other circumstances. Such a marketplace does not necessarily raise public-policy concerns regarding fair lending."[32]

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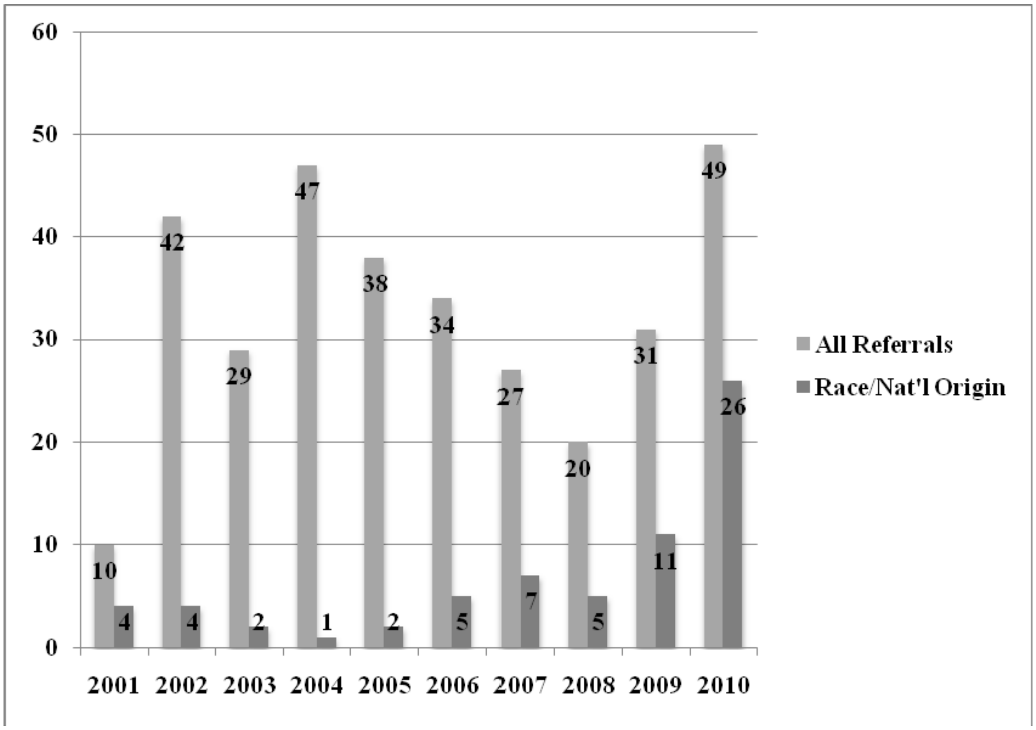
[28] Cisneros, Henry and Jack Kemp. 2008. "The Future of Fair Housing" Report of the National Commission on Fair Housing and Equal Opportunity.

[29] Avery, Robert, Glenn B. Canner, and Robert E. Cook. 2005, "New Information Reported under HMDA and Its Application in Fair Lending Enforcement." Federal Reserve Bulletin. Pg.393

[30] The Attorney General's 2010 Annual Report to Congress Pursuant to the Equal Credit Opportunity Act Amendments of 1976. April 5, 2011. Pg.2

[31] Avery, Robert, Glenn B. Canner, and Robert E. Cook. 2005, "New Information Reported under HMDA and Its Application in Fair Lending Enforcement." Federal Reserve Bulletin.

[32] Avery. pg. 380

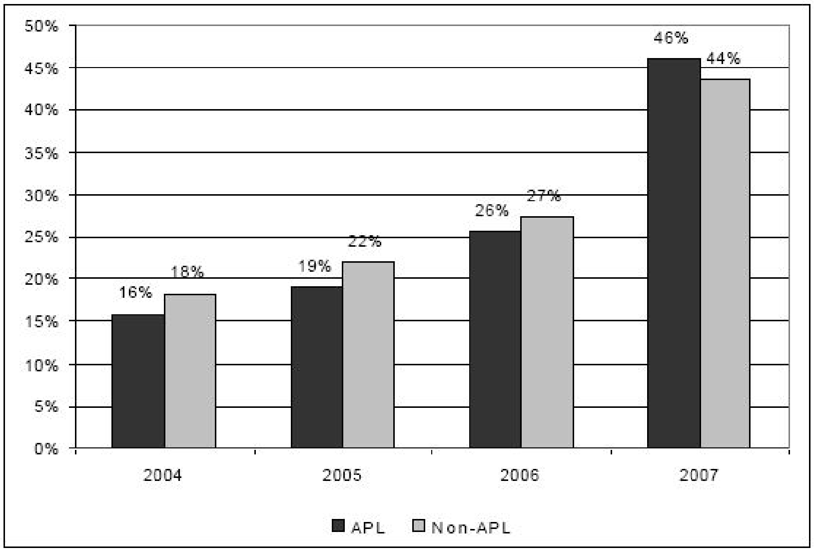


2001-2010 Fair Lending Referrals to DOJ

There is a clear duty to explore the roots of the financial mortgage crisis which is not simply a result of the rapid growth of collateralized mortgage obligations and exotic loan products, but the federal preemption of state and local efforts to prevent mortgage abuses and the deregulation of the financial services industry.
In 2004, the Office of the Comptroller of the Currency officially preempted national banks from state laws regulating mortgage credit as a result the share of high-cost loans that were preempted in states with anti-predatory lending laws increased from 16% in 2004 to 46% in 2007, coinciding with the explosion of high-cost lending.[33] A study conducted by the Center for Community Capital "observe[d] a lower default rate for neighborhoods in APL (anti-predatory lending law) states, in states requiring verification of borrowers' repayment ability, in states with broader coverage of subprime loans with high points and fees, and in states with more restrictive regulation on prepayment penalties."[34] This suggests that government action had a direct and quantifiable impact not only on the increase of high cost loans, but also on the increase of defaults and foreclosures in states whose laws were preempted. Further, this suggests that many of the measures proposed by the financial regulatory agencies are unwarranted.

[33] Ding, Lei, Roberto G. Quercia and Alan White. 2009. "State Anti-predatory Lending Laws: Impact and Federal Preemption Phase I Descriptive Analysis. Center for Community Capital.
[34] IBID.

Figure 5 National Banks/Federal Thrifts Share of High-cost Loans in APL/Non-APL States



*Note: APL states defined as those with an APL stronger than HOEPA regulation effective before the year being analyzed.

Center for Community Capital

There is evidence that the agencies have failed to take affirmative steps to restore victims of unlawful practices to the position they would be in but for the agencies' failure to adequately regulate and monitor lenders for discriminatory conduct.

There is concern that the proposed QRM rule fails to take affirmative steps to prevent the recurrence of discriminatory conduct by the government and to eliminate the effects of past discrimination by providing policies and procedures that would ensure that ALL segments of the homeownership market are served without regard to their protected status and have equal access to safe, affordable and sustainable loan products.

Why and how the QRM can affirmatively further fair housing.

The regulatory agencies have a duty to affirmatively further fair housing and eliminate barriers to housing choice.

"In accordance with section 808 (d) and (e) of the Fair Housing Act and Executive Order No. 12259, other Federal agencies, including any agency having regulatory or supervisory authority over financial institutions, are responsible for ensuring that their programs and activities relating to housing and urban development are administered in a manner affirmatively to further the goal of fair housing, and for cooperating with the Assistant Secretary in furthering the purposes of the Fair Housing Act."
– 24 CFR 103.515

Each agency has a duty to determine what market forces account for any disparities, determine whether less discriminatory alternatives are available, identify disparities that negatively impact minority households' ability to access safe, sustainable and affordable financial products and to adopt policies aimed at improving housing affordability and access to capital for minority households.

The regulators must consider these findings along with the cumulative impact of the QRM as set forth in the proposed rule on African American households and other minority groups. Public Policy decisions have encouraged and contributed to the racial wealth divide and the negative consequences it has had on our families, our neighbors and our neighborhoods. The proposed QRM reinforces the structural racism that has permeated our housing and financial markets and will serve to undermine the economic vitality of our country.

There is concern that the agencies have erred in their interpretation of the QRM provision based upon the statements of the QRM amendment's bi-partisan sponsors and over 325 members of Congress,.[35]

"The proposed regulation goes beyond the intent and language of the statute by imposing unnecessarily tight down payment restrictions. These restrictions unduly narrow the QRM definition and would necessarily increase consumer costs and reduce access to affordable credit. Well underwritten loans, regardless of down payment, were not the cause of the mortgage crisis. The proposed regulation also establishes overly narrow debt to income guidelines that will preclude capable, creditworthy homebuyers from access to affordable housing finance." - Mary L. Landrieu, U.S. Senator; Kay R. Hagan, U.S. Senator; Johnny Isakson, [36]

It is important to emphasize that the adverse impact of the proposed narrow QRM on minority borrowers is entirely unnecessary. Well-underwritten low-down payment loans can and should play an essential role in a sustained housing recovery. As Mark Zandi noted in a prior report on the QRM issue, "low down payment mortgages that are well underwritten have historically experienced manageable default rates, even under significant economic or market stress."8 In his recent paper on the proposed rule, Zandi concludes, "The risk-retention rules being proposed are unlikely to meaningfully improve securitization's incentive problem. At the same time, they will raise borrowing costs significantly for many homebuyers and make loans difficult to get for others.[37] Further, low-down payment loans coupled with PMI and sound underwriting reduces risk to investors, while providing safe, affordable loan products to a broad spectrum of borrowers.

There is strong support for the adoption of a QRM that provides for the wide availability of safe, soundly written sustainable and affordable loan products for a broad spectrum of consumers and one that protects the long-term interests of all parties to the transaction.
The regulatory agencies as part of their duty to affirmatively further fair housing should conduct research to determine how the unlawful steering of African Americans, and Hispanics to subprime products from 2003-2008 negatively impacts their credit worthiness under the proposed QRM rules and assess what role the lack of regulatory oversight played in creating this disadvantage. The regulatory agencies then must outline what steps they will undertake to remedy this past discrimination.

The regulatory agencies in an effort to increase sustainable homeownership should allow all potential homebuyers to purchase PMI to supplement any shortage in meeting the 20% downpayment requirement.
The regulatory agencies in an effort to increase sustainable minority homeownership should include in the proposed rule the development of special purpose credit programs in accordance with eligibility requirements as defined by Regulation B with the expressed goal of bridging the disparity gaps identified.

The regulatory agencies in an effort to increase sustainable minority homeownership should review the performance of portfolio loans that served the needs of low and moderate income borrowers and consider including CRA products with strong performance into the definition of QRM.

Finally, the regulatory agencies should fulfill their obligations under Executive Order 12892 by adopting policies and procedures that affirmatively further fair housing to reduce the long-term impact of their actions on the housing choices of African Americans and other minorities groups.

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[35] Coalition for Sensible Housing Policy. June 22, 2011. Press Conference.
[36] Comment letter on QRM submitted by U. S. Senate members May 26, 2011.
[37] Coalition for Sensible Housing quoting Mark Zandi's Moody Analytics Special Report, "The Skinny on Skin in the Game," March 8, 2011, by Mark Zandi, page 3.

Respectfully Submitted,

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