The “Qualified Mortgage” Rule: Housing Bubble on the Horizon

Predatory lending practices

By Mike Whitney
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The US Consumer Financial Protection Bureau’s rule defining a “qualified mortgage”, which was announced on Thursday, creates vast new opportunities for the nation’s biggest banks to engage in predatory lending practices with impunity.

While the mainstream media describes the rule as an attempt to protect borrowers from the risky types of loans that caused the financial crisis, the opposite is true. The real purpose of the rule is to provide legal protection for the banks from homeowner lawsuits, and to lay the groundwork for more reckless lending that could inflate another housing bubble. In other words, the rule was designed to serve the interests of the banks and the banks alone. This is why bankers everywhere are celebrating the final draft. Take a look at this from Forbes:

> “We applaud the Bureau for offering a legal safe harbor to lenders when they originate loans that meet the rigorous ‘qualified mortgage’ standards in the rule,” said Debra Still, chairman of the Mortgage Bankers Association, in a statement. “This approach should allow lenders to offer sustainable mortgage credit to a great number of qualified borrowers without having to risk unreasonable and overly punitive litigation and penalties.” (Could New Tighter Mortgage Rules Actually Ease Lending?” Forbes)

The banks are happy because they got everything they wanted; blanket legal immunity for garbage mortgages they plan to offload onto US taxpayers, a green light to resume extending credit to high-risk borrowers, and a first-rate public relations campaign that makes the entire coup look like genuine consumer protection. As one cheery bankster quipped, “This was the Superbowl of rules”.

Indeed. It’s a big victory for the banks, but a major defeat for consumers. And the aftershocks will be felt for years to come, because (as we said in an earlier article) housing sales are already above trend and prices are back to normal which means that the only way the banks can reduce their huge backlog of 5 million distressed homes (which will face foreclosure in the next few years) is by creating another housing bubble. And, as we all know, housing bubbles require lax lending standards so that people who are not really creditworthy, end up borrowing hundreds of thousands of dollars that they’ll never be able to repay. This is what the new rule is really all about; it provides new opportunities for predatory lending, but with one notable difference from before, that is, if the loan meets the pitiable standard of a qualified mortgage, then the losses from the defaulting loan will be paid by taxpayers. That’s why the bankers are celebrating.

So, ignore the PR-hype about the banning of “deceptive teaser rates” or “no documentation loans” or “protecting the consumer”. That’s just a smoke screen to confuse you. The meat and potatoes in this rule, is what it doesn’t say. Here’s a clip from the Wall Street Journal that sums it up perfectly:

> “Do qualified mortgages have a minimum down payment or credit score requirement?
>
> No. Instead, the rules focus primarily on documenting a borrower’s ability to make monthly payments.” (“What the CFPB Measures Mean For Borrowers”, Wall Street Journal)

Have you ever heard anything more ridiculous in your life?

Didn’t we just go through a massive housing implosion which sent the financial system and the real economy into a 4-year death spiral? And now the agency which is supposed to protect consumers from another similar catastrophe is allowing the banks to issue mortgages that will be guaranteed by the government to applicants who don’t have the wherewithal for a lousy 5 or 10 percent down payment (No “skin in the game”) and whose credit scores will not be used to help decide whether they’re capable of repaying the loan or not?

What sense does that make? Does CFPB Director Richard Cordray think that he’s protecting consumers from the ravages of predatory lending by abandoning traditional standards and criteria for issuing a mortgage? Is that it?

Or is Cordray just another “captured” regulator doing the banks’ bidding? (It was clear that Cordray was another malleable bank toady back in Oct 2012 when this issue first arose. See: “Consumer Protector Caves to the Banks“, CounterPunch)

The media is making a big deal about the “ability-to-repay” provision of the new rule which requires banks to see that borrowers have sufficient assets or income to pay back the loan. But, once again, it’s all fluff. Banks don’t operate on the “honor system”. They’re going to stretch the new QM rule as far as possible, fitting borrowers into loans that will certainly fail sometime in the future. The losses for those loans will then be passed on to taxpayers. This is the same scam that took place during the subprime mortgage crisis. The banks booked profits on all manner of junk loans to high-risk borrowers figuring that the losses would be shifted onto investor groups who purchased the (subprime) bonds in the secondary market. The same nightmare is about to unfold again, only this time the banks won’t get stuck with the tab. Here’s an excerpt from an article in the New York Times that explains:

> “As regulators complete new mortgage rules, banks are about to get a significant advantage: protection against homeowner lawsuits … some banking and housing specialists worry that borrowers are losing a critical safeguard. Industries rarely get broad protection from consumer lawsuits, and banks would seem unlikely candidates given the range of abuses revealed during the housing bust.” (“Banks Seek a Shield in Mortgage Rules”, New York Times)

Can you believe it? Even the business-friendly NYT is shocked that the CFPB is giving the banks legal immunity. (“Safe harbor”) Why? Why would the government agree to insure the activities of private industry (through Fannie and Freddie), especially when that industry has shown that it is loaded with crooks and criminals? This is corporate welfare at its worst and, unfortunately, it creates a powerful incentive for the banks to game the system and recklessly extend credit to anyone who can sit upright and sign a mortgage application.

Here’s more from the NYT:

> “The Consumer Financial Protection Bureau, the fledgling agency that is shaping the rules, faces a crucial but difficult task. Banks are pressing for a strong version of the legal shield. They also want qualified mortgages to be available to a broad range of borrowers, not just those with pristine credit.”

Of course they do. That’s how they make their money, by creating toxic loans that are passed along to Uncle Sam. How else are the banks going to boost profits in an economy where underemployment is tipping 14 percent, where wages are shrinking, and where the net wealth of the average American has plunged by a harrowing 40 percent in the last decade?

Business investment?

Don’t make me laugh. The only way the banks can survive is by attaching themselves parasitically to the US government and sucking for all they’re worth. Bad loans are simply the modus operandi, the means by which they extract fluid from their victim. Cordray and Co. appear to be only-too-eager to assist them in this task. Here’s more from the Times:

> “Big financial institutions have faced an onslaught of litigation since the downturn, although mostly by the government, investors and other companies instead of borrowers. In February, five large mortgage banks reached a $26 billion settlement with government authorities that aimed, in part, to hold banks accountable for foreclosure abuses.”

Okay, so now we’re getting down to brass tacks. The banks want the new rule to shield them from future losses that will naturally accrue when they start ripping people off again. Right? This is why they fought tooth-n-nail to keep Elizabeth Warren off the CFPB board, because they knew she wouldn’t play ball with them. So they turned to “rubber stamp” Cordray instead, who has performed admirably executing Wall Street’s latest big heist with the skillfulness of a paid assassin.

Way to go, Rich.

There’s one more tidbit in the new QM rule that’s worth noting, a provision that states that “loans would be deemed qualified mortgages if borrowers are spending no more than 43% of their pretax income on monthly debt payments.”

“43% pretax income”?

You gotta be kidding me. That means that borrowers can qualify even if they’ll have to fork over 50% or more of their weekly paycheck. How many of those loans are going to get repaid?

Not many, I’d wager. This bill is a joke. Cordray has set up taxpayers for some hefty losses just to ingratiate himself with the Wall Street Bank Mafia. It’s shocking.

Can you see what's going on?

The banks don't want to act like banks anymore. They don't want to hold capital against the loans they issue, they don't want to keep loans on their books, and they don't want to pay the losses when the loans blow up. The just want to keep printing private money (credit), booking profits on that money (loans), and then dumping the red ink on Uncle Sam. That's how the whole thing works.

The QM rule was designed to work hand in hand with the Fed's $40 billion per month purchases of mortgage backed securities. (MBS) This is key to understanding what's going on.

The Fed, in concert with the Obama administration and the big banks, has replicated the same conditions that existed just prior to the last big bubble. The Central Bank will play the same role as investors in the secondary market (from 2003 to 2007), that is, the Fed will buy up all the garbage MBS the banks can produce. All the banks have to do is to find mortgage applicants who meet the wretched "no down payment, no credit score" requirements of the CFPB, and then "Let 'er rip."

All the pieces are now in place for another humongous, economy-crushing housing bubble. This isn't going to end well.

***Mike Whitney** lives in Washington state. He is a contributor to Hopeless: Barack Obama and the Politics of Illusion (AK Press). Hopeless is also available in a Kindle edition. He can be reached at fergiewhitney@msn.com.*

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