

# THE DODD-FRANK ACT

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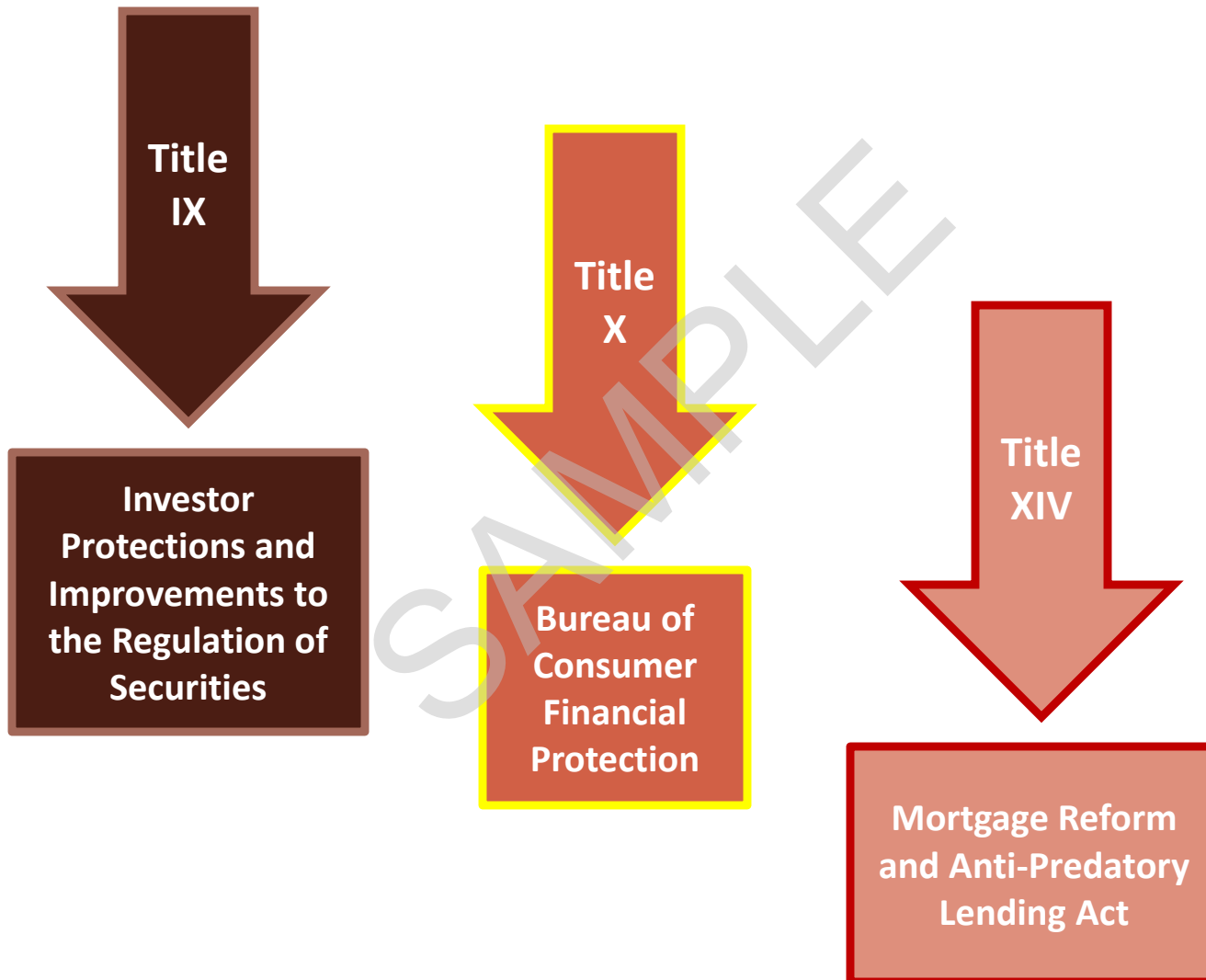
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BANKERS ADVISORY, Inc.  
375 Concord Ave., Belmont MA 02478  
[www.bankersadvisory.com](http://www.bankersadvisory.com)

## What is Dodd-Frank?

- The full name of the legislation is the Dodd-Frank Wall Street Reform and Consumer Protection Act.
- It is named for the Senators who introduced it, Christopher Dodd (D-Conn) and Barney Frank (D-Mass).
- The Dodd-Frank Act is a massive piece of legislation more than 2,300 pages long and includes 16 titles, each with several subsections. It is a direct result of the subprime lending crisis and is intended to address its causes.
- Titles IX, X, and XIV are of particular interest to the mortgage industry.

# The Dodd-Frank Act



# Introduction

- Title IX creates the Office of Credit Ratings in the Securities Exchange Commission and addresses credit risk retention and “qualified residential mortgages.”
- Title X establishes Consumer Financial Protection Bureau (CFPB) and delineates its responsibilities and authority.
- Title XIV, the Mortgage Reform and Anti-Predatory Lending Act, contains provisions affecting the mortgage industry including, but not limited to, originator compensation, prepayment penalties, appraisals, loan servicing, and HOEPA expansion.

## TITLE IX:

INVESTOR PROTECTIONS AND IMPROVEMENTS TO THE REGULATION OF SECURITIES

## Improvements to Credit Ratings

- Improvements to the regulation of Credit Rating Agencies (CRA) are found in Subtitle C, §931 through §939H.
- Creates an Office of Credit Ratings in the SEC to monitor and enforce CRA rules:
  - Office would conduct annual examinations of CRAs and be charged with promoting accuracy of credit ratings and ensuring that such ratings are not unduly influenced by conflicts of interest.
  - Requires CRAs to disclose their history of performance and methodology used to determine ratings. The methodology must include inputs and assumptions, as well as any shortcomings or uncertainties associated with the rating.

## Improvements to Credit Ratings -- §931 to §939(H)

- **The Office of Credit Ratings must also initiate several studies:**
  - 1. Federal agencies must review their regulations to evaluate impact of removing references to credit ratings.**
  - 2. SEC must study how to maximize CRA independence and minimize conflicts of interest.**
  - 3. SEC must also study feasibility of establishing public or private utility that would assign CRA's to determine credit ratings for structured finance products.**
  - 4. GAO must study whether compensation models other than "issuer paid" model would improve CRA independence.**

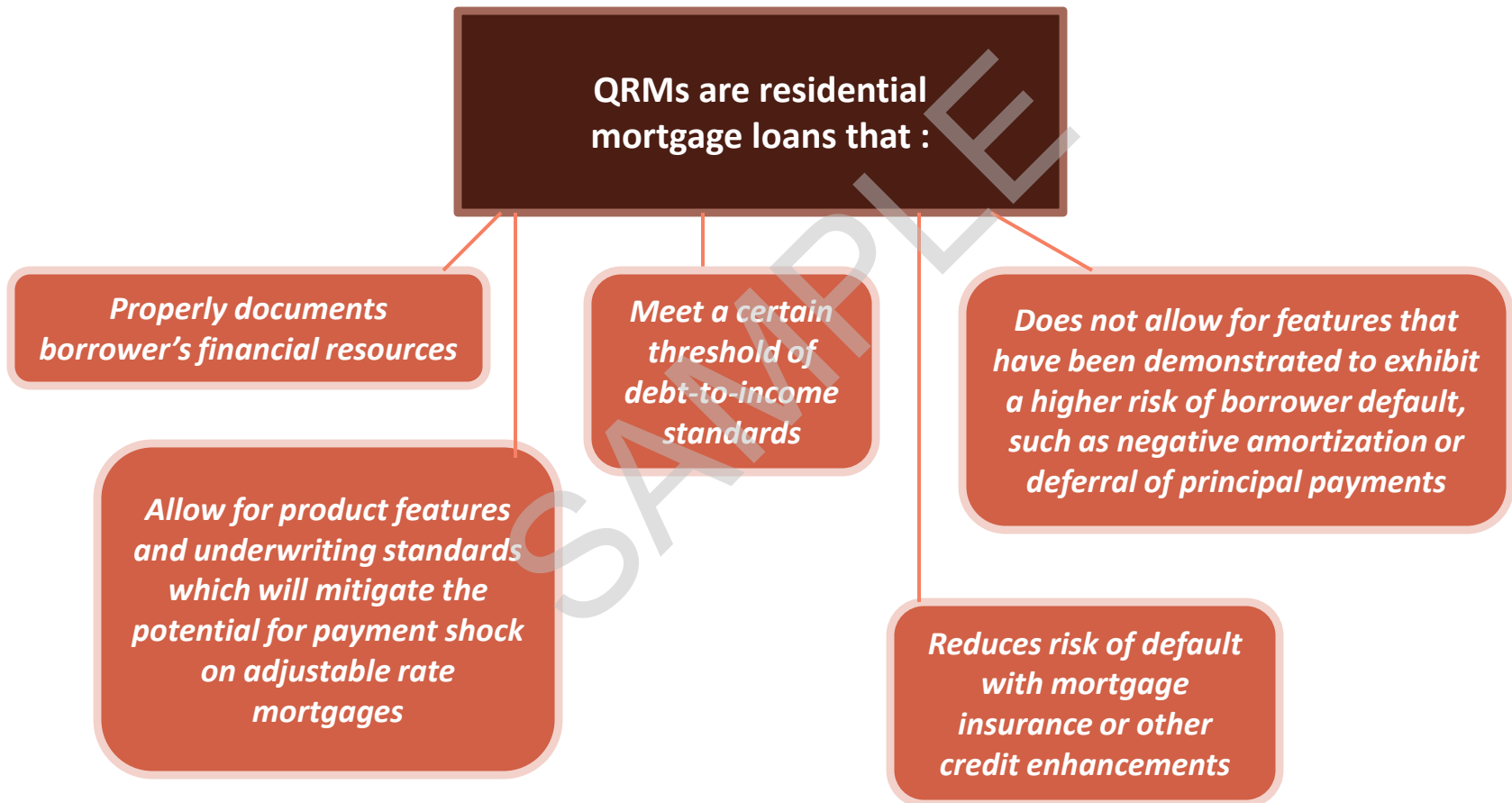


## Credit Risk Retention

- Credit Risk Retention is found in Subtitle D, §941.
- Title IX requires federal banking agencies and SEC to jointly prescribe rules requiring securitizers to retain economic interest of at least 5% of the credit risk of assets they securitize.
- Regulations must include separate requirements for different asset classes, and may allocate retention amount between originator and securitizer.
- HUD and Federal Housing Finance Agency must participate in joint rulemaking process for residential mortgage backed securities (MBS) risk retention requirements.

# Exemption for Qualified Residential Mortgages (QRM)

*What are the criteria for designation as a QRM ?*



## Additional Exemptions

- Title IX exempts loans insured or guaranteed by the United States government from risk retention requirements.
- For commercial MBS, regulators must give consideration to other types, forms and amounts of risk retention such as representations and warranties, underwriting criteria and first-loss positions.
- Within 90 days of enactment, requires FRB to complete study on combined impact of risk-retention and accounting standards requiring securitizations to be brought on balance sheet.

TITLE X:

BUREAU OF CONSUMER FINANCIAL PROTECTION

## What is the CFPB?

- Title X of Dodd-Frank establishes the Consumer Financial Protection Bureau (CFPB). It is housed within the Federal Reserve, but it is independent and therefore not subject to its supervision.
- The CFPB is authorized to examine and enforce regulations for banks and credit unions with assets that exceed \$10 billion, as well as all mortgage-related businesses, along with payday lenders, student lenders and other large non-bank financial companies.

## What is the CFPB?

- The establishment of the CFPB consolidates consumer protection responsibilities that currently reside in a number of federal agencies.
- The CFPB has the authority to write rules for consumer protection that will govern most financial institutions and will be able to initiate investigations and conduct litigation in its own name.
- Provides that rules issued by the Bureau are reviewable by the Financial Stability Oversight Council but may be set aside only if such rule would “put the safety and soundness of the US banking system or the stability of the financial system of the US at risk.”