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MESSAGE IN A MORTGAGE: WHAT DODD-FRANK'S "QUALIFIED MORTGAGE" TELLS US ABOUT OURSELVES

David Reiss[*]

This essay outlines the ethics that shape federal housing finance policy and situates them in the context of the Dodd-Frank Act.[1] In a way, however, it asks a simpler question: what do our mortgages tell us about our society?

The essay proceeds as follows. First, it outlines three ethics that inform American housing finance policy generally. Second, it contrasts two mortgages: the one from the subprime boom of the early 2000s and the other from Dodd-Frank, the "Qualified Mortgage." It concludes by using the three ethics to answer the question posed above. It also outlines what is at stake in the housing sector given the choices that we might make.

This inquiry takes place in the face of the immense complexity of the American housing finance system. The Office of the Comptroller of the Currency (OCC), the Federal Reserve Board (FRB), the Federal Deposit Insurance Corporation (FDIC), the Securities and Exchange Commission (SEC), the Federal Housing Finance Administration (FHFA) and the Department of Housing and Urban Development (HUD), among other federal regulators, are responsible for regulating the federal residential finance market, a market that is now more than eleven trillion dollars ($11,000,000,000,000).[2] Trying to derive a clear understanding of federal housing finance policy in the face of the extraordinary regulatory complexity is no mean task.[3] And given the size of this market, the stakes are, of course, high.

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[*] Professor of Law, Brooklyn Law School. Versions of this essay were presented at the *Shadow Banking* symposium at the Boston University School of Law on February 24, 2012 and the *Ongoing Implementation of the Dodd-Frank Act: Consumer Protection and Other Goals* symposium at the University of Pennsylvania Law School on November 18, 2011.. The author would like to thank participants of the symposiums for their comments. Steven Hasty provided excellent research assistance.

[1] Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Pub. L. No. 111-203, 124 Stat. 1376 [hereinafter the "Dodd-Frank Act" or "Dodd-Frank"].

[2] *Market Data*, FED. HOUS. FIN. AGENCY, http://www.fhfa.gov/Default.aspx?Page=70 (last visited Feb. 21, 2012).

[3] This discussion of housing policy ethics is drawn from David Reiss, *First Principles for An Effective Federal Housing Policy*, 35 BROOK. J. INT'L L. 795 (2010).

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I. HOUSING POLICY ETHICS

Let me begin with my outline of three broad ethics that inform housing finance policy: the "Housing as an Economic Good" ethic; the "Housing as a Human Right" ethic; and the "Housing as a Bulwark of Democracy" ethic.

The "Housing as an Economic Good" ethic treats housing as any other commodity and asks how government policies will distort the functioning of the market for housing. The "Housing as an Economic Good" ethic is woven throughout all debates regarding federal housing policy, as many of the programs of the past have come to be criticized for their unintended distortions of the housing market.[4] Employing this ethic, policymakers can identify policies which reduce the supply, affordability and quality of housing in the long-term even if they reduce the cost of housing in the short term.

The second ethic that is imbued throughout discussions of federal housing finance policy is the "Housing as a Human Right" ethic. This ethic asks how a policy furthers the goal of making safe, well-maintained and affordable housing available to all. While housing as a human right has only been stated aspirationally in federal law, it does echo in the many ways that housing affordability and quality have become central to housing policy generally and housing finance policy specifically. A variety of federal programs reflect this ethic, such as the various mortgage guaranty programs for first-time homeowners and affordable housing projects as well as programs that provide capital advances for projects that serve special needs populations such as the elderly and the disabled.

The third relevant ethic is "Housing as a Bulwark of Democracy." The importance of this ethic in American politics and American housing finance policy cannot be overstated. The centrality of homeownership to America's vision of itself as a society of equal citizens reaches at least as far back as Jefferson's idealized "yeoman farmer." Jefferson's yeoman farmer was his ideal citizen because he was self-sufficient, earning his own keep and considered himself the equal of anyone else, jealously guarding his liberty and his unalienable rights.

Lincoln's Homestead Act of 1862, which granted 160 acres to settlers, continued the idea of the "yeoman farmer" and the "yeoman farmer" then morphed into the "homeowner" in the 20th Century with presidents as different

[4] Rent control is the most commonly discussed example of a policy with a negative unintended distortion of the housing market, with economists nearly universal in their judgment that rent control ultimately reduces the supply of rental housing, particularly for low-income families, thereby increasing the aggregate cost of such housing.

as Herbert Hoover, Lyndon Johnson, Bill Clinton and George W. Bush making homeownership a key aspect of their political agendas.

As the various instrumentalities of the federal government adopt new housing policies implemented through complex and opaque regulations, we must evaluate whether they are consistent with the housing policy ethics that we have identified. Because the muddier the waters, the more that special interests can divert resources to their own ends. Clarity of thought helps to promote the efficient and equitable use of government resources.

II. A TALE OF TWO MORTGAGES

With this framework for thinking about federal housing policy in mind, let me tell my tale of two mortgages. One of my most striking memories from the height of the Subprime Boom of the mid-Aughts involves a phone call from a reporter for the Wall Street Journal.[5] He wanted me to comment on a particular type of high interest mortgage marketed by a national lender. The mortgage came with a two-year teaser cap on loan payments (not on the interest rate mind you—on the payments!). It also had a three-year prepayment penalty period. This can create a perfect storm for a borrower, particularly for an unsophisticated one.

We can call this perfect storm "payment shock," a situation where a borrower is hit with a dramatic rise in her mortgage monthly payment after an earlier period of lower monthly payments. For once the artificially low payments of the two-year teaser period end, the borrower might find it difficult to make her payments on the loan.

This is because the loan may have negatively amortized over the first two years—that is, the amount owed has actually increased. This can occur because the payment cap may keep the borrower's monthly payments lower than the amount of interest that had accrued that month. The interest that is not paid is then added to the principal amount of the loan, and later interest is calculated on this higher amount. And because the loan is now amortizing over a 28-year period (after the two year teaser period has ended), instead of the more typical 30 years that mortgages take to amortize, the principal payments are even higher. This payment increase is further compounded because the full amount of interest is now due in the month that it accrues as opposed to being deferred by the payment cap.

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[5] I had briefly discussed this mortgage product in David Reiss, *How the Residential Mortgage-Backed Securities Market Impacts Dirt Lawyers and Their Clients*, N.Y. REAL PROP. L.J., Fall 2007, at 35.

That is not all. Remember that the mortgage has a prepayment penalty. If the borrower tries to refinance from this high interest rate product to a more affordable one after the two-year teaser cap is lifted, she will be forced to pay a prepayment penalty. That is because the prepayment penalty period lasts for three years, a year longer than the teaser cap on payments.

This ensures that the lender wins—one way or another. Borrower either (i) pays the significantly higher amount due after year two or (ii) she is forced to prepay to get a more affordable payment schedule; pay the prepayment penalty to Lender; and refinance into another loan. If the lender were lucky, she would refinance with it again, generating a new set of origination fees.

So what are the values that are implicit in such a mortgage? At our most charitable, we can argue that it reflects the "Housing as an Economic Good" ethic described above. The homeowner who accepted these terms was not coerced. She was free to hire a lawyer to review the terms of the mortgage if she so desired. Perhaps, even, this was the best—or only—mortgage that she was eligible for. So at our most charitable, we could say that this mortgage tells of a society committed to freedom of contract and one that expects its members to take responsibility for their decisions, with no net in case they fail. Such a mortgage would reflect the "Housing as an Economic Good" and would treat the homeowner as a rational economic actor.

A slightly less charitable view would say that this mortgage reflects a *caveat emptor* approach to property law—the state disavows any responsibility to protect consumers through common or statutory law. But it at least puts parties on notice: LET THE BUYER BEWARE—you are on your own. And an even less charitable view would describe this mortgage as predatory—a symptom of a society with an even simpler message to its inhabitants: BEWARE—this state signals that we exist close to a state of war of every man against every man and where life in the housing market can often be "solitary, poore, nasty, brutish, and short."[6]

In other words, the message of such a mortgage is that we are in a constant state of competition and if some large entities are able to secure a big advantage, individuals in the market should just beware. In any case, this mortgage in no way reflects the other ethics of federal housing policy: "Housing as a Human Right" or "Housing as a Bulwark of Democracy." And some people like it that way—including numerous academics committed to a classic laissez-faire approach to consumer markets; many in the consumer finance industry; and many politicians who oppose greater consumer protection regulation.

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[6] THOMAS HOBBES, LEVIATHAN 57 (1651) (J.C.A. Gaskin ed., 2011).

Now let's turn to another species of mortgage, Dodd Frank's "Qualified Mortgage" as well as its statutory sibling, the "Qualified Residential Mortgage." The "Qualified Mortgage" is one that is privileged by Dodd-Frank in order to incentivize lenders to originate them instead of other types of mortgages.[7] The "Qualified Mortgage" provides lenders with a safe harbor from certain provisions of the Truth in Lending Act (TILA) as well as from Dodd-Frank's mandatory "ability to repay" underwriting standards.[8]

Dodd-Frank leaves the term "Qualified Residential Mortgage" to be defined by federal regulators, but it must be no broader than a "Qualified Mortgage."[9] The "Qualified Residential Mortgage" is exempted from the credit

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[7] Dodd-Frank § 1412 (adding section 129C(b)(2) to the Truth in Lending Act, to be codified at 15 U.S.C. § 1639c(b)(2)). Dodd-Frank requires that the Consumer Financial Protection Bureau promulgate rules relating to "Qualified Mortgages." *Id.*

[8] Dodd-Frank § 1412. The "safe harbor" is a rebuttable presumption that a "Qualified Mortgage" meets Dodd-Frank section 1411's "ability to repay" standards. *Id.* FHA and GSE-insured loans are exempt from the "skin in the game requirements. 15 U.S.C. § 78o-11(c)(1)(G)(ii). *See also* Andrea J. Boyack, *Laudable Goals and Unintended Consequences: The Role and Control of Fannie Mae and Freddie Mac*, 60 AM. U. L. REV. 1489, 1558 (2011) (explaining why GSEs should also be subject to the "skin in the game" requirement).

[9] 15 U.S.C. § 78o-11(e)(4)(C) (2011). The OCC, FRB, FDIC, SEC, FHFA and HUD issued an Interagency Proposed Rule on Credit Risk Retention that proposed a definition of the "Qualified Residential Mortgage." 76 F.R. 24090 (Apr. 29, 2011); *see* 76 F.R. 34010 (June 10, 2011) (modifying proposed rulemaking schedule).

The guidelines for such a definition are found at 15 U.S.C. section 78o-11(e)(4)(B):

> The Federal banking agencies, the Commission, the Secretary of Housing and Urban Development, and the Director of the Federal Housing Finance Agency shall jointly define the term "qualified residential mortgage" for purposes of this subsection, taking into consideration underwriting and product features that historical loan performance data indicate result in a lower risk of default, such as--
>
> (i) documentation and verification of the financial resources relied upon to qualify the mortgagor;
>
> (ii) standards with respect to--
>
> (I) the residual income of the mortgagor after all monthly obligations;
>
> (II) the ratio of the housing payments of the mortgagor to the monthly income of the mortgagor;
>
> (III) the ratio of total monthly installment payments of the mortgagor to the income of the mortgagor;
>
> (iii) mitigating the potential for payment shock on adjustable rate mortgages through product features and underwriting standards;
>
> (iv) mortgage guarantee insurance or other types of insurance or credit enhancement obtained at the time of origination, to the extent such insurance or credit enhancement reduces the risk of default; and
>
> (v) prohibiting or restricting the use of balloon payments, negative amortization, prepayment penalties, interest-only payments, and other features that have been demonstrated to exhibit a higher risk of borrower default.

risk retention ("skin in the game") provisions that apply to securitizers and originators of asset-backed securities.[10]

The net effect of this component of Dodd-Frank is to create a kind of "plain vanilla" mortgage option that lenders will want to originate because it poses fewer regulatory and litigation risks.[11] This plain vanilla option is meant to crowd out a number of abusive practices that sprang up during the Subprime Boom. While not labeled explicitly, each of these prongs is tied to a notorious lending practice.

In general, the term "Qualified Mortgage" covers any residential mortgage:

> 1. for which the periodic payments do not result in an increase in principal and which does not allow the borrower to defer principal payments; *read this as* no negatively amortizing (also known as "payment choice") mortgages.
>
> 2. for which income and the other financial resources of the borrower are verified and documented; *read this as* no liar loans.[12]
>
> 3. that does not include balloon payments; *read this as* no payment shock.
>
> 4. with underwriting based on a fully amortizing payment schedule for fixed rate mortgages and, for adjustable rate mortgages (ARMs), with underwriting based on the maximum rate permitted under the loan for its first five years with a payment schedule that fully amortizes it over its full term; *read this as*, again, no payment shock.
>
> 5. which comply with applicable regulatory guidelines or regulations relating to acceptable debt to income ratios; *read this as* no equity-based lending.

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[10] Dodd-Frank § 941. Generally, securitizers must retain at least five percent of the credit risk for any asset to be securitized that is not a "Qualified Residential Mortgage," the so-called "skin in the game." 15 U.S.C. § 78o-11(c) (2011).

[11] *See* John Pottow, *Ability to Pay*, 8 BERKELEY BUS. L.J. 175, 175–76 (2011). The definitions of "Qualified Mortgage" and "Qualified Residential Mortgage" bring back to life the "plain vanilla" mortgage option that had been heatedly debated before Dodd-Frank was adopted but had been rejected in its original incarnation. *Id.*

[12] Joe Nocera, *In Prison for Taking a Liar Loan*, N.Y. TIMES (Mar. 25, 2011), http://www.nytimes.com/2011/03/26/business/26nocera.html (describing consumer convicted for fraud on applications for stated-income loans, the formal term for "liar loans.").

6. for which points and fees are no more than three percent; *read this as*, no equity stripping; and

7. for which the loan term does not exceed 30 years, except in certain high-cost areas; *read this as* no endless cycles of debt.[13]

What does this mortgage say about the society from which it sprang? Let's get the bad stuff out of the way: it says that paternalism is appropriate in some contexts. It limits the flexibility of parties to modify a mortgage when compared to how society regulates goods and services generally. It may restrict credit needlessly. And it may be irrelevant. In sum, it may diverge from the "Housing as an Economic Good" ethic to some large extent.

Paternalistic

It had long been the view among economists that consumer protection is paternalistic to the extent that consumers are rational.[14] Behavioral economics has challenged this notion, demonstrating that consumers can behave in predictably irrational ways (and indeed, in some cases, in rationally ignorant ways).[15] This debate plays out, of course, in discussions of Dodd-Frank, too.[16]

The Subprime Bust has made paternalism much easier to swallow as a policy choice because so many have made such spectacularly bad choices. And behavioral economics has provided a theoretical justification for paternalistic government policies that some had found lacking until recently.

Limits Flexibility

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[13] Dodd-Frank § 1412. "Qualified Mortgages" also have a limitation on prepayment penalties. Dodd Frank § 1414 (adding section 129C(c)(3) to TILA, to be codified at 15 U.S.C. § 1639c(c)(4)). Qualified Mortgage prepayment penalties must be no greater than three percent and must phase out over a three year period. *Id.* This provision also reduces the opportunities for equity stripping.

For a discussion of the characteristics of predatory residential mortgages, *see* David Reiss, *Subprime Standardization: How Rating Agencies Allow Predatory Lending To Flourish in The Secondary Mortgage Market*, 33 FLA. ST. U. L. REV. 985, 992–97 (2006).

[14] *See, e.g.,* RICHARD A. POSNER, ECONOMIC ANALYSIS OF LAW 15–17 (3d ed. 1986). Public choice theorists might characterize consumer protection regulation in even worse terms: it is the product of rent-seekers who hope to gain favorable regulations to benefit themselves and who may couch the regulations in consumer protection garb in order to make it more palatable politically. *See generally* JAMES M. BUCHANAN & GORDON TULLOCK, THE CALCULUS OF CONSENT: LOGICAL FOUNDATIONS OF CONSTITUTIONAL DEMOCRACY (1962) (setting forth theory of public choice).

[15] *See, e.g.,* Richard Thaler, *Toward a Positive Theory of Consumer Choice*, 1 J. ECON. BEHAV. & ORG. 39 (1980).

[16] *See, e.g.,* Pottow, *supra* note 10, at 206 (discussing Dodd-Frank's paternalism); Onnig H. Dombalagian, *Investment Regulations and the Essence of Duty*, 60 AM. U. L. REV. 1265, 1278 (2011) (discussing paternalistic aspects of financial reform).

It is well established that rules-based regulation is less flexible than a standards-based approach or an unfettered market for that matter. The definition of a "Qualified Mortgage" surely falls within the scope of rules-based regulation, with its bars on numerous mortgage characteristics.[17]

The Dodd-Frank Act did, however, build significant regulatory flexibility into its regulation of mortgages. Dodd-Frank authorizes regulators to

> prescribe regulations that *revise*, *add to, or subtract from the criteria that define a qualified mortgage* upon a finding that such regulations are necessary or proper to ensure that responsible, affordable mortgage credit remains available to consumers in a manner consistent with the purposes of [the relevant sections of Dodd-Frank], to prevent circumvention or evasion therefore, or to facilitate compliance with such sections.[18]

It remains to be seen whether regulators will be nimble enough to deploy such flexibility, but the option is certainly there.

Restricts Credit

Consumer advocates and real estate industry trade groups argue that strict underwriting criteria contained in the proposed "Qualified Residential Mortgage" definition will restrict credit to many who could benefit from it.

The Coalition for Sensible Housing Policy (a coalition of 44 groups including the Center for Responsible Lending, the consumer advocacy organization, as well as the American Bankers Association) stated in its comments on the Interagency Proposed Rule on Credit Risk Retention that it was

> particularly concerned about the consequences of establishing a high down payment requirement of 10% or 20% (or more for refinances) as well as unnecessarily restrictive debt-to-income and rigid credit history requirements. Without significant changes to the narrow ["Qualified Residential Mortgage"] definition, we believe the rule would raise the cost of mortgages and reduce access for creditworthy borrowers . . . .[19]

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[17] Dodd-Frank § 1412 (defining "Qualifying Mortgage"). *See supra* text accompanying note 12.

[18] Dodd-Frank § 1412(b)(3)(B) (emphasis added). *See also* 15 U.S.C. § 78o-11(e) (allowing Federal banking agencies and SEC to adopt exemptions, exceptions and adjustments to "skin in the game" requirements).

[19] COAL. FOR SENSIBLE HOUS. POLICY, PROPOSED QRM DEFINITION HARMS CREDITWORTHY BORROWERS WHILE FRUSTRATING HOUSING RECOVERY 1 (2011), *available at* http://www.responsiblelending.org/mortgage-lending/policy-legislation/regulators/Coalition-QRM-White-Paper-1.pdf. The Coalition argues that "once you apply the strong underwriting standards in the

Finding the right balance between responsible underwriting and access to credit is, of course, key. But again, Dodd-Frank allows for such a result because of the flexibility built into the statute to change the definition of a "Qualified Mortgage" and a "Qualified Residential Mortgage."

Possibly Irrelevant

Adam Levitin, Andrey Pavlov and Susan Wachter argue that the "Qualified Mortgage" and "Qualified Residential Mortgage" definitions may be too *narrow* such that they could not sufficiently crowd out less-consumer friendly mortgage products from the market.[20] In other words, unless such mortgages get a critical mass of market share, they may not impede a new cycle of abusive lending practices once the credit markets recover from their current swoon. They also note that the definitions could turn out to be too *broad* such that they allow in many risky mortgage products within their scope.[21] In other words, if regulators allow too many risky options in the name of increased consumer choice, the "Qualified Mortgage" and the "Qualified Residential Mortgage" designations may not provide much consumer protection at all. Both paths could lead to a return to a mortgage market where abusive lending practices return with a vengeance.

And, of course, particular financial services companies may push for radically different definitions in order to increase their own market share. For instance, lenders who specialize in reasonably large down payment loans (prime lenders) might be only too happy to have a high down payment requirement in order to drive competitors (subprime lenders) and their products from the market. Other market participants, like subprime lenders, might perversely favor very stringent requirements (very, very high down payment requirements) for "Qualified Residential Mortgages" so that few mortgages (even many of those originated by prime lenders) could qualify as "Qualified Residential Mortgages." Subprime lenders might find that this would level the playing field between prime and subprime lenders because neither would be able to get the cheaper financing through securitization that the "Qualified Residential Mortgage" would be able to achieve. Or, the ultimate compromise

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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. However, the increase in the minimum down payment from 5 percent to 10 percent would eliminate from 4 to 7 percent of borrowers from qualifying for a lower rate QRM loan." *Id.* at 6.

[20] Adam J. Levitin et al., *The Dodd-Frank Act and Housing Finance: Can It Restore Private Risk Capital to the Securitization Market?*, __ YALE J. ON REG. __, at 11 (forthcoming 2012), *available at* http://ssrn.com/abstract=1970288.

[21] *Id.* A related question is whether regulators can keep up with market participants as they attempt to circumvent the spirit of the regulations while complying with their letter. *See* Richard Hynes & Eric Posner, *The Law and Economics of Consumer Finance,* 4 AM. L. & ECON. REV. 162 (2002).

on the definitions could be just so lousy that they could lead to a dormant mortgage market, with a concomitant catatonic housing market. Thus, a key question is whether the definitions of these two terms achieve a sweet spot among the approaches.[22]

* * *

So, what is good about the "Qualified Mortgage?" As opposed to the Subprime Boom mortgage product discussed above, the "Qualified Mortgage" definition reflects the other two ethics that inform federal housing finance policy. Housing affordability, an aspect of "Housing as a Human Right," is present in its terms that

(i) reduce payment shock over the life of the mortgage;

(ii) bar liar loans (which typically overstate income and thus lead to higher payments than borrowers can afford); and

(iii) bar equity-based underwriting (that is, the lender now must determine that the homeowner has the means to be able to pay the loan back so that the loan will not result in foreclosure).

"Housing as a Bulwark of Democracy" is present in its terms that tend to make homeowners more and more financially self-sufficient:

(i) no negative amortization;

(ii) no equity stripping; and

(iii) no endless cycle of debt.

III. OUR MORTGAGES, OURSELVES

I have posited that each of these mortgages, the worst from the Subprime Boom and Dodd-Frank's response, is a microcosm of a different vision of society. But while inconsistent with each other, these two mortgages both fall squarely within the traditions of American housing finance policy. So, clarity is important here because we have a choice between two starkly different visions of federal housing finance policy: the first, based on *caveat emptor* or the second, based on a vision of housing as a foundation for a stable life for homeowners and their families.

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[22] *See* Levitin *et al.*, *supra* note 20, at 23.

That second vision need not compromise efficiency goals. Rather it can provide a structure to the market that allows for healthy price competition among financial institutions. It can also provide a structure that offers consumer protection to rein in abusive practices that take advantage of homeowners negotiating for the most complex product that they are ever likely to obtain.

I would have found it ridiculous that the need for consumer protection in the mortgage markets would need to be so vigorously defended after the Subprime Bust. But throughout the academy, the financial industry and the political arena, it is clear that many are ideologically or self-interestedly opposed to consumer protection. As to those who are ideologically opposed, there will not be a meeting of the minds, as far as I can tell, if the events of the last ten years have not changed their minds. For those who have a financial interest in the outcome of this fight, we should expect them to be driven by that self-interest. Indeed, I am reminded of the words that Adam Smith—known to some as a proponent of free markets—used to close Book One of *The Wealth of Nations*:

> The proposal of any new law or regulation of commerce which comes from [market participants], ought always to be listened to with great precaution, and ought never to be adopted till after having been long and carefully examined, not only with the most scrupulous, but with the most suspicious attention. It comes from an order of men, whose interest is never exactly the same with that of the public, who have generally an interest to deceive and even to oppress the public, and who accordingly have, upon many occasions, both deceived and oppressed it.[23]

It is left to those of us operating in the political arena, citizens and politicians alike, to allow ourselves to be taught by experience as we adopt a new structure for the residential mortgage market. The lessons that I have learned include the fact that unregulated mortgage markets have a cycle of their own that leads from Boom to Bust. I have also learned that unregulated mortgage markets allow sophisticated, repeat market participants like lenders to take advantage of unsophisticated, one-off consumers. Experience has also taught me that disclosure is insufficient to overcome the complexity of many credit transactions for many consumers. Finally, experience has taught me that people systematically make bad predictions about their own future preferences, particularly as far as credit transactions are concerned.

[23] ADAM SMITH, AN INQUIRY INTO THE NATURE AND CAUSES OF THE WEALTH OF NATIONS 287–88 (1776) (E. Cannan ed., 1994).

Until I learn otherwise, I see that the "Qualified Mortgage" and its sibling the "Qualified Residential Mortgage" better reflect the values inherent in federal housing policy than the unfettered products that sprang up during the Subprime Boom. If employed properly, the structure for the residential mortgage markets implicit within Dodd-Frank's text may improve the stability of that market while also allowing for widespread access to credit. But it will be for those making the decisions in the political arena to determine whether that is how we, as a nation, see ourselves.