Structured Finance Association

Member Survey: QM-ATR Rules

Sept 2019

In response to the Consumer Financial Protection Bureau's (CFPB) Advanced Notice of Proposed Rulemaking (ANPR) on the Ability to Repay-Qualified Mortgage (ATR-QM) Rule, the Structured Finance Association (SFA) created a survey designed to elicit responses from its members across the securitization industry. Surveys such as this are often utilized by our organization to gauge broad market views. This survey covers issues and considerations within the current QM and non-QM markets and provides data that SFA can use in our response to the ANPR regarding the CFPB's approach to the expiration of the "QM Patch".

In addition to the survey, SFA convened a QM Symposium in June of this year, bringing together regulators, policymakers, issuers, investors, law firms, housing and community advocates, rating agencies, diligence firms, and data and analytic providers to discuss the ATR-QM rule and the implications of the expiration of the QM Patch. SFA also formed a QM Task force comprised of its members, and which includes firms involved at every stage of the loan origination and securitization process in both the QM and non-QM markets. Over the course of the past few months, SFA staff have been actively engaging with and seeking input from our members who have interest in this issue.

This survey provides data that SFA will plan to use to inform our ongoing engagement with the CFPB, providing market-based feedback on how different proposals or aspects of the rule might impact access to credit, credit quality, investor demand, and perceived legal or regulatory risk. SFA's engagement with CFPB will also be informed by qualitative discussions and feedback received from our members as a result of our symposium and ongoing QM Task Force meetings.

Please note the definitions for respondent categories seen throughout the survey results is located at the end of the survey. Very broadly, as a result of both the attached survey and our ongoing work, we have identified a few themes for discussion. Some of those themes are detailed below.

Thank you to all our members who participated in our survey.

SFA Member Survey: Summary Results

Sept 2019

Key Survey Takeaways

General comments

- A final rule should make clear there is room for vibrant, responsible lending in the QM Safe Harbor, QM Rebuttable Presumption, and Non-QM market spaces.
- The guidelines should have more clarity, particularly around income documentation for both QM and non-QM loans.
- SFA members overwhelmingly support the elimination of the so-called QM Patch, which grants the GSEs an advantage in the form of a dynamic means for determining QM status, especially for loans above 43% DTI.
  - A bright-line legal presumption of compliance with ATR requirements—also referred to as QM—should exist for a subset of loans where the originator determined the borrower's ability to repay in good faith.
  - However, SFA members vary in whether they think the presumption should apply to all, some, or most loans underwritten to specified standards, and whether and in what circumstance such a deterministic presumption is conclusive or rebuttable by the borrower.
  - SFA members believe loans above 43% DTI can be made responsibly, but have different views on how to use compensating factors. In the weeks and months to come, SFA will work to build a greater degree of consensus on some possible approaches to this challenge.

Revisions to QM:

- Appendix Q, as currently constructed, leaves many high-quality borrowers, particularly those who do not receive a traditional IRS W-2 form as a full-time employee, likely outside the definition of a QM. With 36% of U.S. workers participating in the gig economy either through their primary or secondary jobs and nearly 40% of the American workforce now making at least 40% of their income through gig work*, it is important for the CFPB to address these shortcomings with the existing Appendix Q. SFA's members will, in the coming weeks and months, work to offer more specific recommendations.

*See studies at: https://www.gallup.com/workplace/240929/workplace-leaders-learn-real-gig-economy.aspx and https://www.pymnts.com/gig-economy/2018/freelance-workers-payments-online-marketplace-hyperwallet/

SFA Member Survey: Summary Results

Sept 2019

Key Survey Takeaways

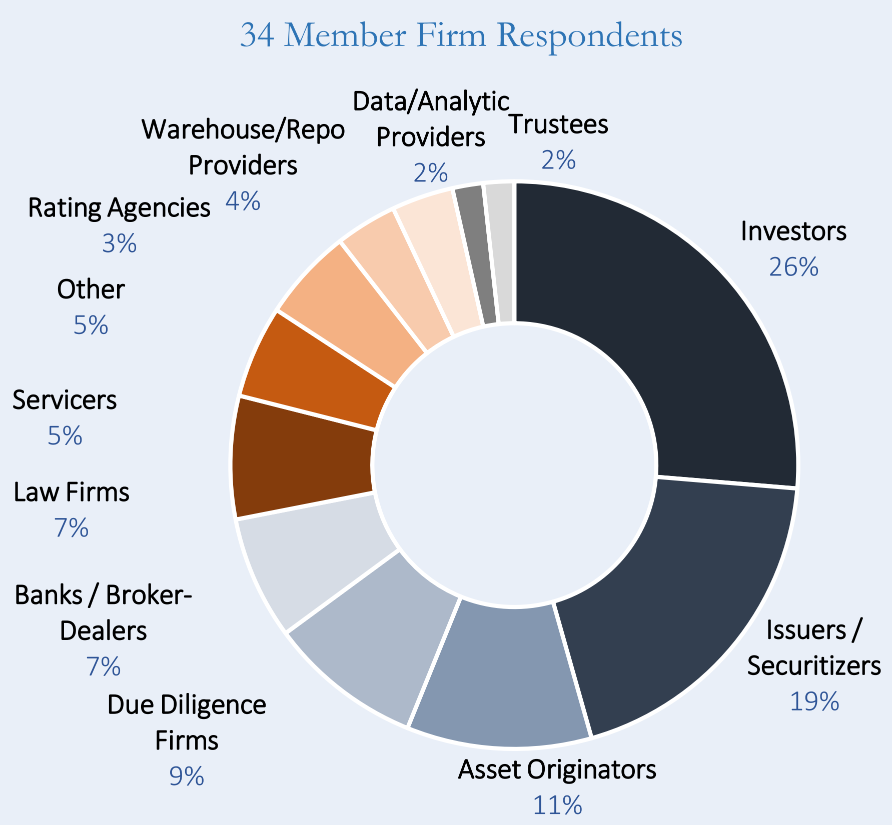
Revisions to QM (continued):

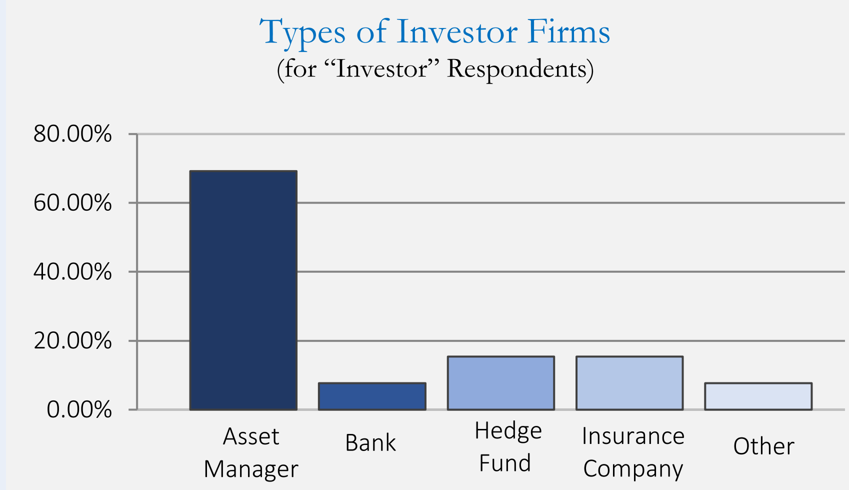
- In addition to looking to underwriting factors to establish QM up front, some members expressed support for an option to achieve QM status via loan seasoning, whereby certain loans that demonstrate consistent, successful payment history (e.g., 24-36 months) would satisfy QM requirements that the lender made a good faith determination of the borrower's ability to repay upon meeting such seasoning requirements. SFA and its members will seek to determine if there is consensus surrounding this recommendation as well as ensure harmonization of this compensating factor with other QM product feature restrictions.
- Some members noted the negative perception around the term "non-QM", which is sometimes incorrectly conflated with subprime or Alt-A loans. There was some discussion about the changing the term "non-QM" to something that helps address that confusion and speaks to the actual composition of loans in the current non-QM market. These discussions will continue among SFA and its members.

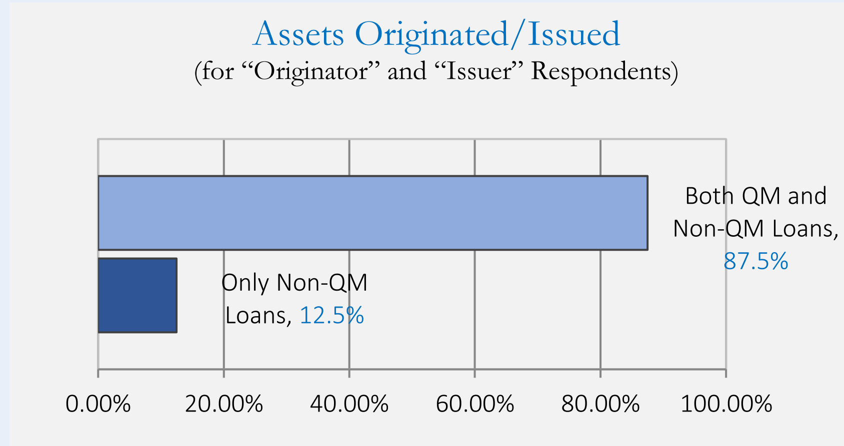
We believe that the varying views expressed by survey respondents speaks to the complexity of this rule, as well as the necessity of striking the appropriate balance among competing rationales embedded within the rule. However, we believe that there is a path forward for the CFPB to perform its statutory obligation in protecting consumers from loans that they can't afford, while also creating a framework where lenders and investors can make loans to a wide variety of borrowers, leveraging technology and innovation in a dynamic manner in a way that benefits all stakeholders in the mortgage market.

Overview of Respondents

We received responses from a broad spectrum of market participants.





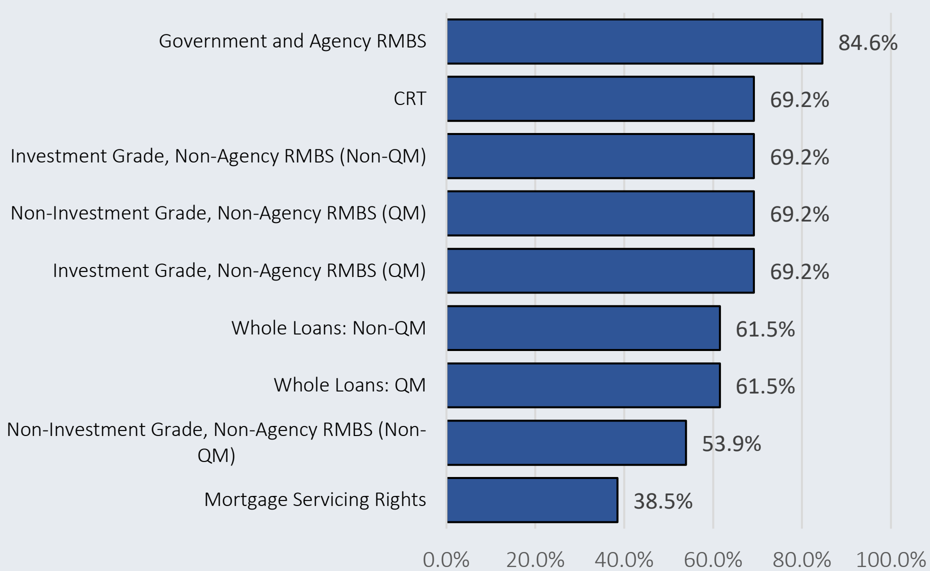


Investor Respondents Participation in RMBS

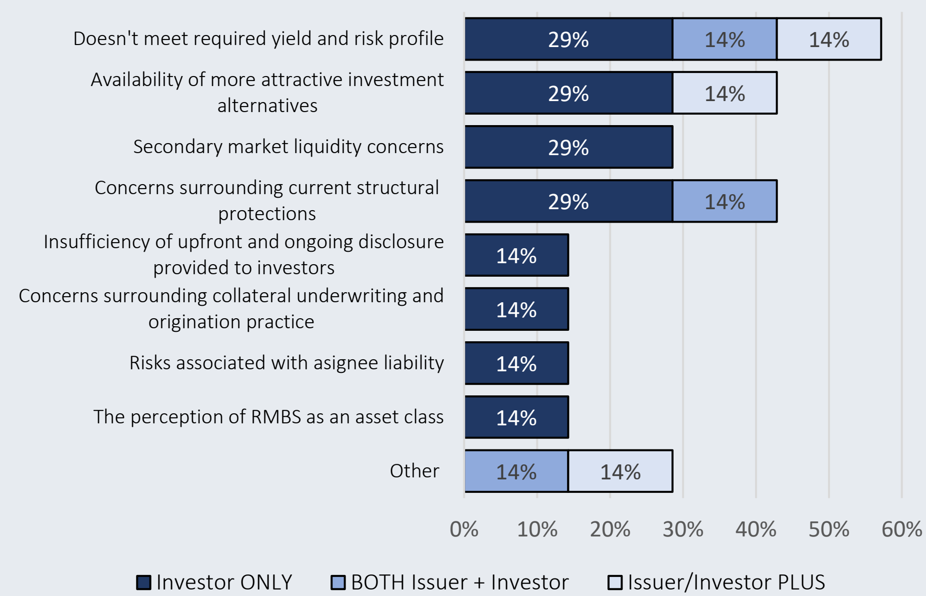
SFA Investor Members are invested in a wide variety of mortgage-related products

- Among SFA Investor respondents, ~69% currently invest in investment-grade non-QM securities, with ~62% buying non-QM whole loans, and ~54% investing in non-investment grade non-QM securities, as depicted in the chart below on the left.
  - Over 40% of investor respondents not participating in the non-agency RMBS market cited the lack of sufficient yield and risk profile, **availability of more attractive investment alternatives** and **concerns surrounding current structural protections** as reasons their firm doesn't invest, as depicted in the chart below on the right.

Investment Types
(Investments Purchased by % of Investor Respondents)



Why doesn't your firm invest in Non-Agency RMBS today? (% of Investor Respondents)



Originator Views on Rebuttable Presumption, Safe Harbor Loans

Originators share their perspectives on originating QM Safe Harbor and/or QM Rebuttable presumption loans

Given the current regulatory regime, some SFA members expressed reservations about whether they would originate QM Rebuttable Presumption loans

- Comments from members indicate that their firms' willingness to originate and/or issue QM Rebuttable Presumption loans was impacted by the **perceived risk of legal and regulatory actions**

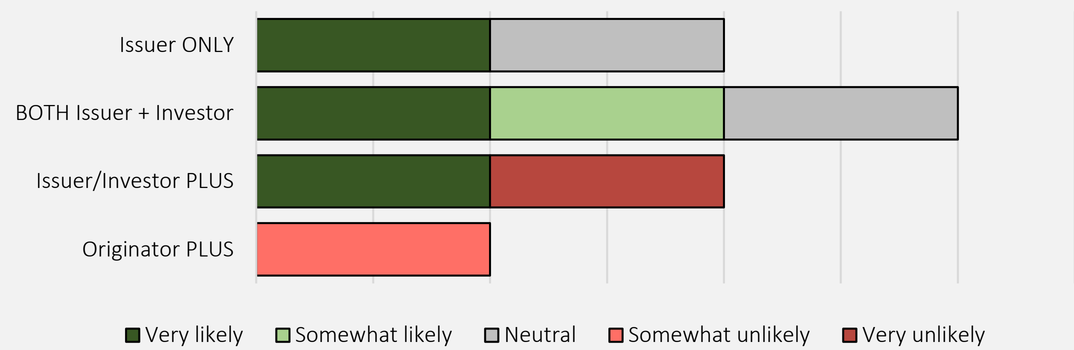
On the other hand, most originators and/or issuers expressed a willingness and desire to originate loans that, under current regulations, would be QM Safe Harbor

- While most originators and issuers expressed a desire to make QM Safe Harbor loans, those that did not indicated that they believe they have a **competitive advantage by originating non-QM or QM Rebuttable Presumption loans**, and choose to focus their efforts in that space

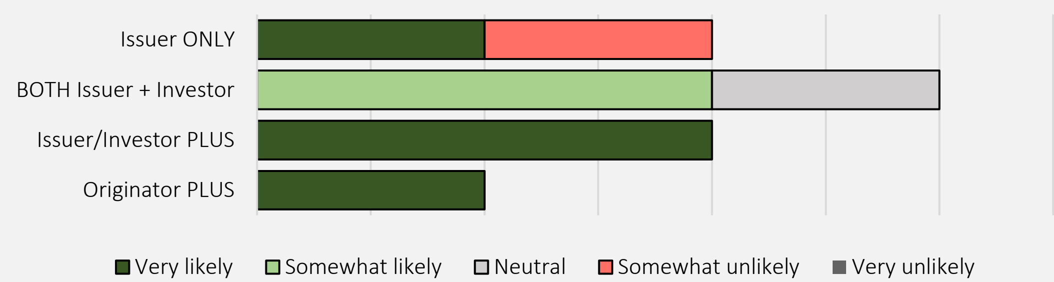
Originators/Issuers only

(members responses by # of firms)

Under current construct, how likely are you to originate Rebuttable Presumption QM loans?



Under the current construct, how likely are you to originate Safe Harbor QM loans?



Category definitions can be found on Page 14

Size of the QM vs. Non-QM Market Share

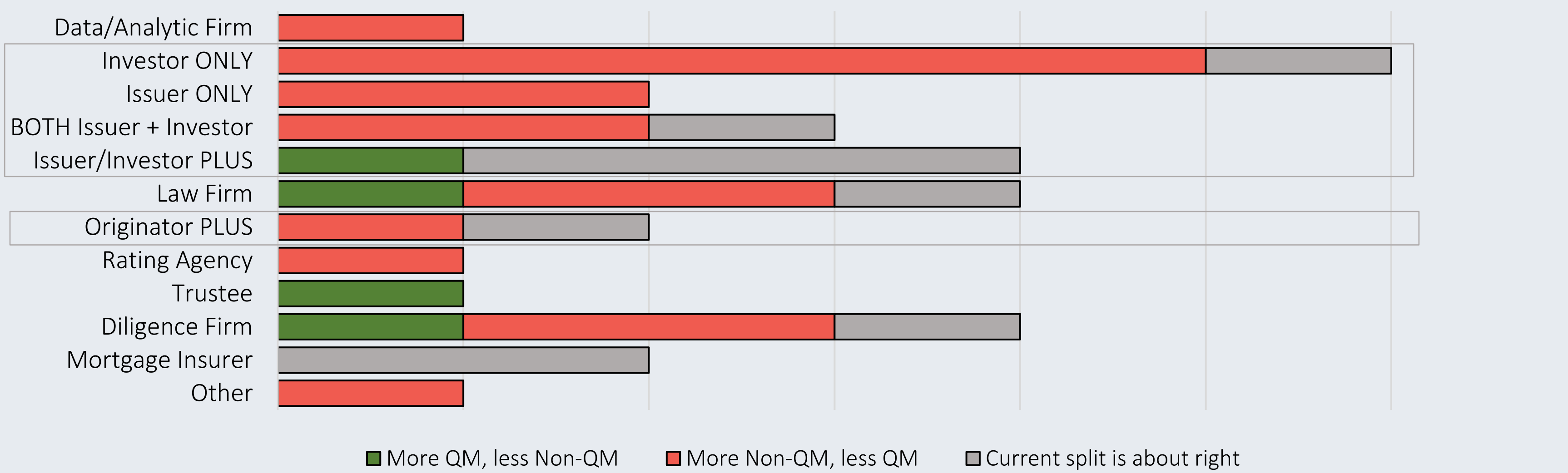
Do you believe the balance between the QM and Non-QM market shares should be increased, decreased, or that the current allocation is about right?

SFA Membership is split on the optimal market share of the QM vs. non-QM Markets

- **~55%** believe that there should be a **bigger non-QM market**, whereas:
  - ~32% believe the current composition is about right
  - ~13% believe that there should be a bigger QM market
- Among Issuers, Investors and Originators, **~63%** believe there should be a bigger non-QM market
- Note that the question asked respondents about market share, not necessarily market size. Some respondents noted a desire to **grow one or more market segments in absolute size,** not just relative market share.

All Respondents

(Member Responses by # of firms)



Product and Features Restrictions

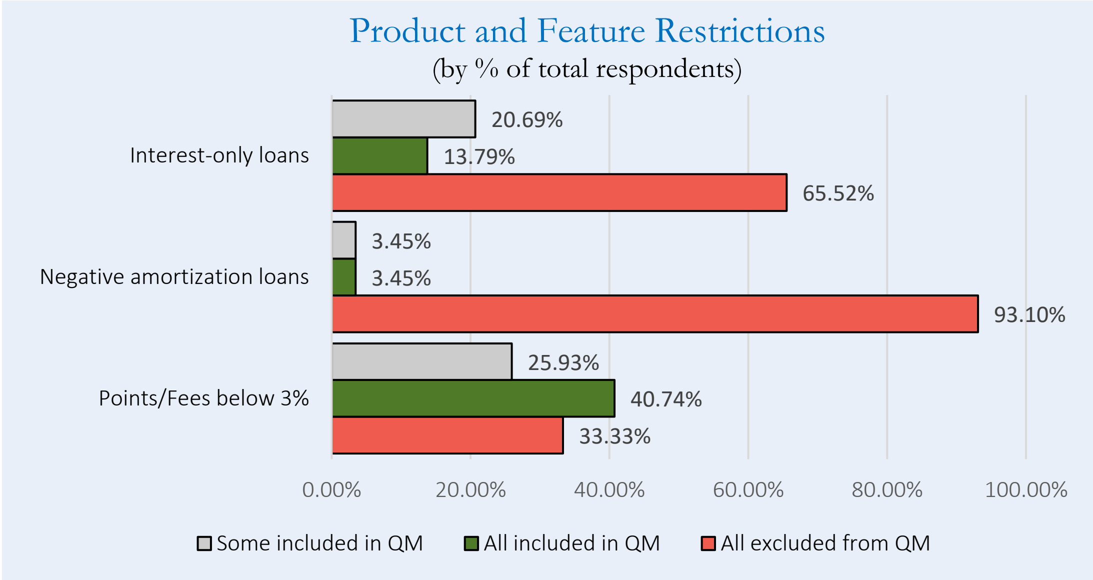
In the future, do you believe the following product features should continue to be bright-line exclusions?

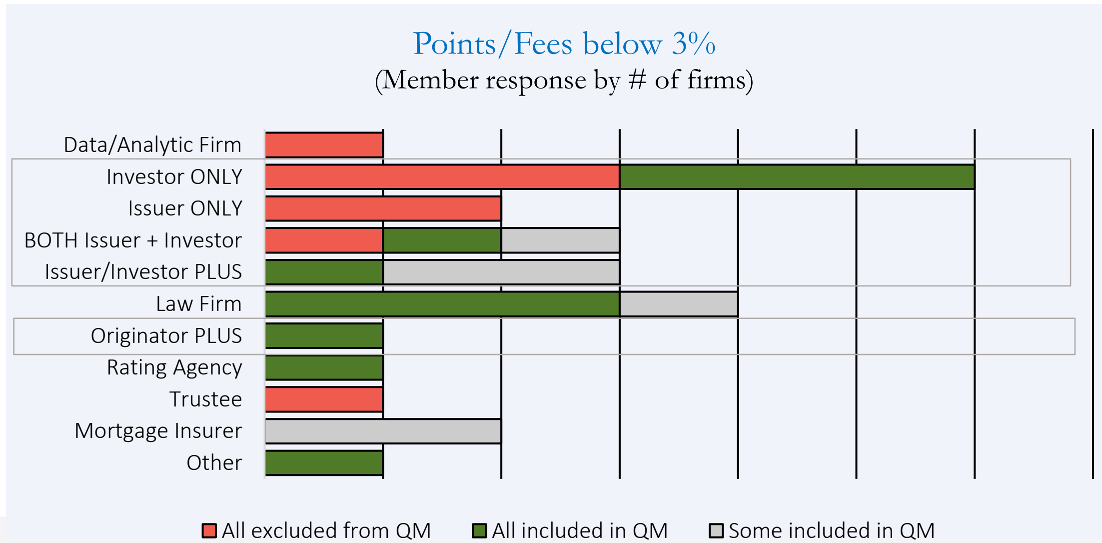
A majority of our Members believe <u>negative amortization loans</u> and <u>interest only loans</u> should NOT be eligible for QM status under any circumstance, as depicted in the top chart.

- ~93% of our members believe that negative amortization loans should not be eligible for QM status
- ~66% believe interest only loans should not be QM

However, there is more of a split when it comes to whether loans with points and fees above 3% should be eligible for QM, as depicted in the bottom chart with:

- 32% of respondents saying that such loans should never be QM eligible, 24% saying that such loans should be eligible in some circumstances, and 44% saying that all loans should otherwise be eligible to attain QM status.
- ~55% of investors and issuers believe there should be restrictions on loans with points and fees greater than 3%





Single Underwriting Factor for Determination of QM Status

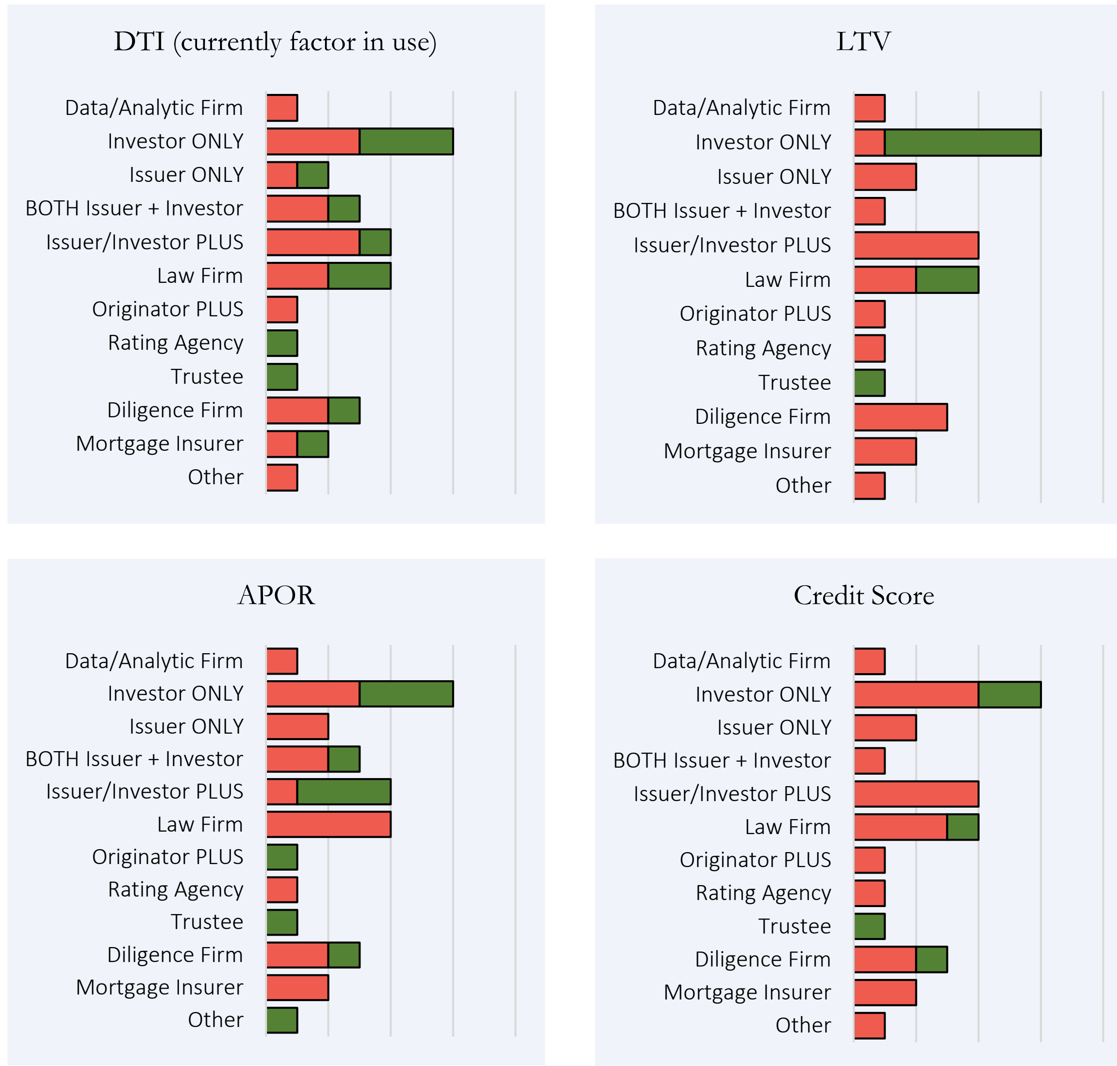
Do you believe the following factors should be bright-line credit exclusions to QM?

While SFA members largely agree product features should remain a deterministic factor between QM and non-QM as depicted in the charts to the right, **no single underwriting factor had support of a majority of SFA members.**

The fact that no single deterministic underwriting factor had greater than 50% support suggests that there is **little consensus on whether a single, standalone underwriting factor should even be the primary basis of determining QM**

- Of the proposed standalone underwriting factors that could distinguish between QM and non-QM,
  - **DTI is the most supported** at ~41% in favor, 59% opposed
  - **LTV** stands at ~28% support
    - Note: 83% of "Investor Only" respondents favored LTV as the determinant.
  - **APOR** stands at ~38% support.
    - Among SFA issuer and investor members, 47% supported using APOR.

(Member responses by # of firms)



■ Should NOT be a bright-line factor
■ Should be a bright-line factor

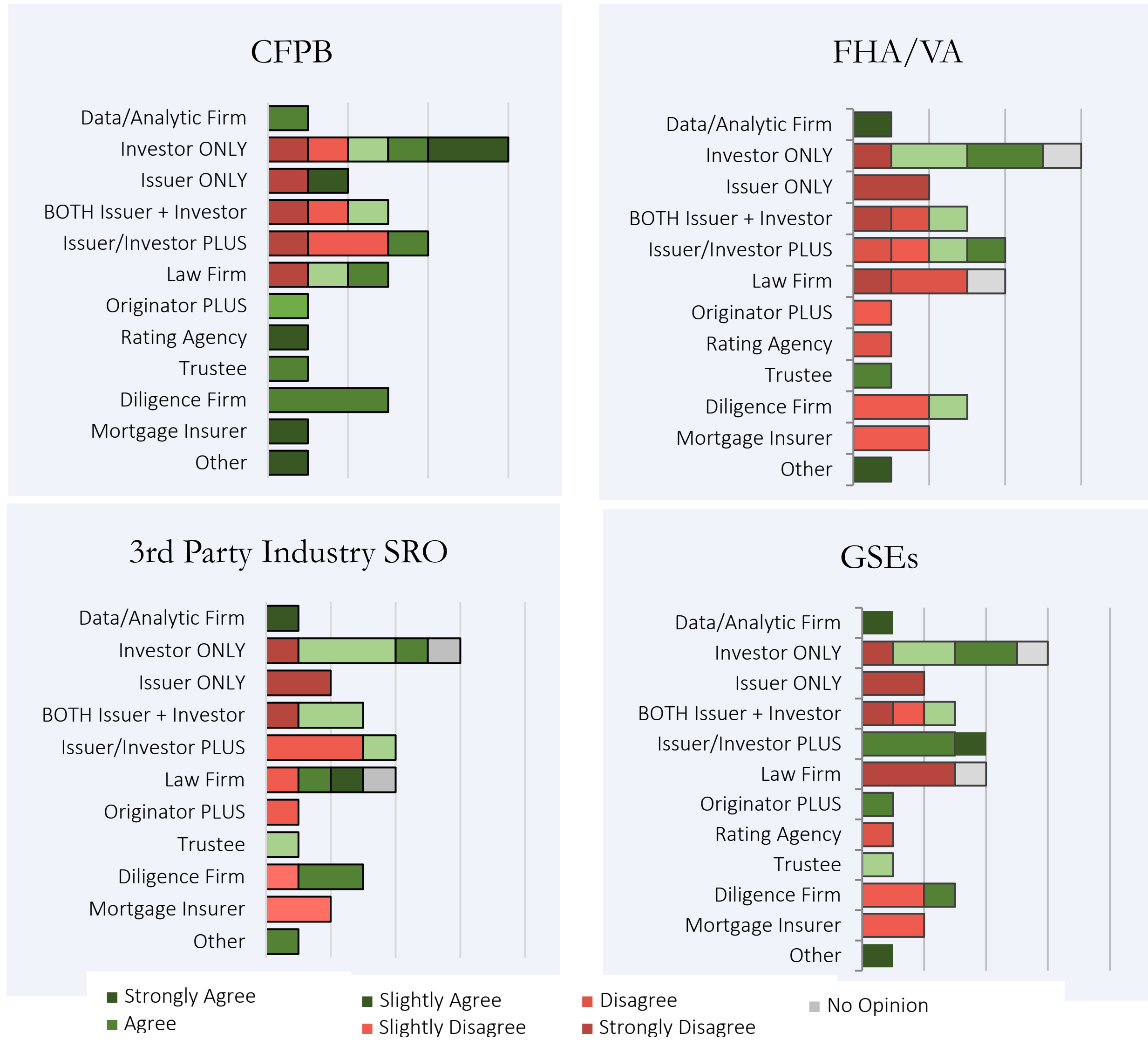
Compensating Factors Approach for Determination of QM Status

What is your support for an AUS created and/or implemented by various entities?

(Member responses by # of firms)

Respondents were asked to gauge their support for four **different approaches to develop and/or implement an AUS** to balance compensating factors to determine QM status.

- The approach with the most support was **CFPB issues guidance** on compensating factors, which each lender implements, had 63% support and 27% opposition.
- The other three approaches all had less than 40% support and greater than 50% opposition, as depicted in the charts.
  - CFPB **defers to existing FHA/VA AUS**
  - CFPB **defers to existing GSE AUS**
  - CFPB **delegates to an industry SRO**.



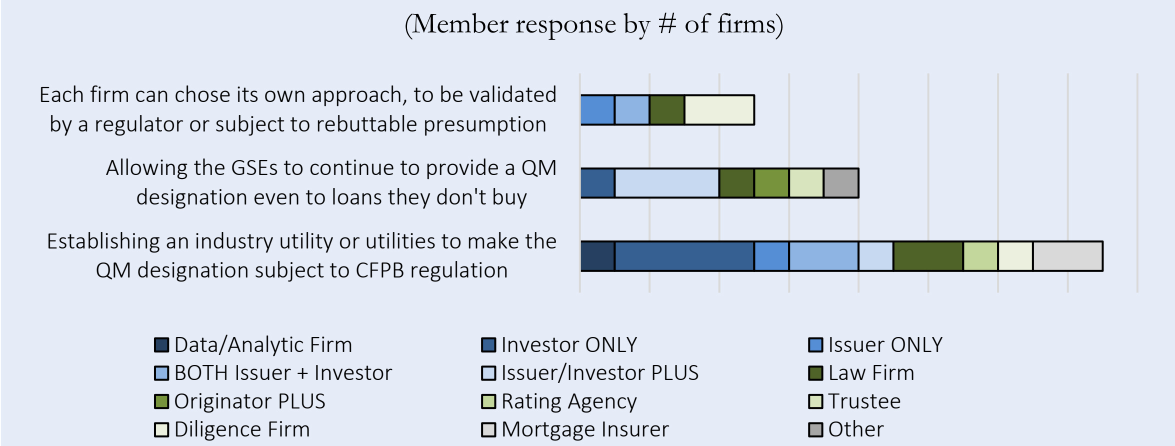
Compensating Factors: What Criteria to Use

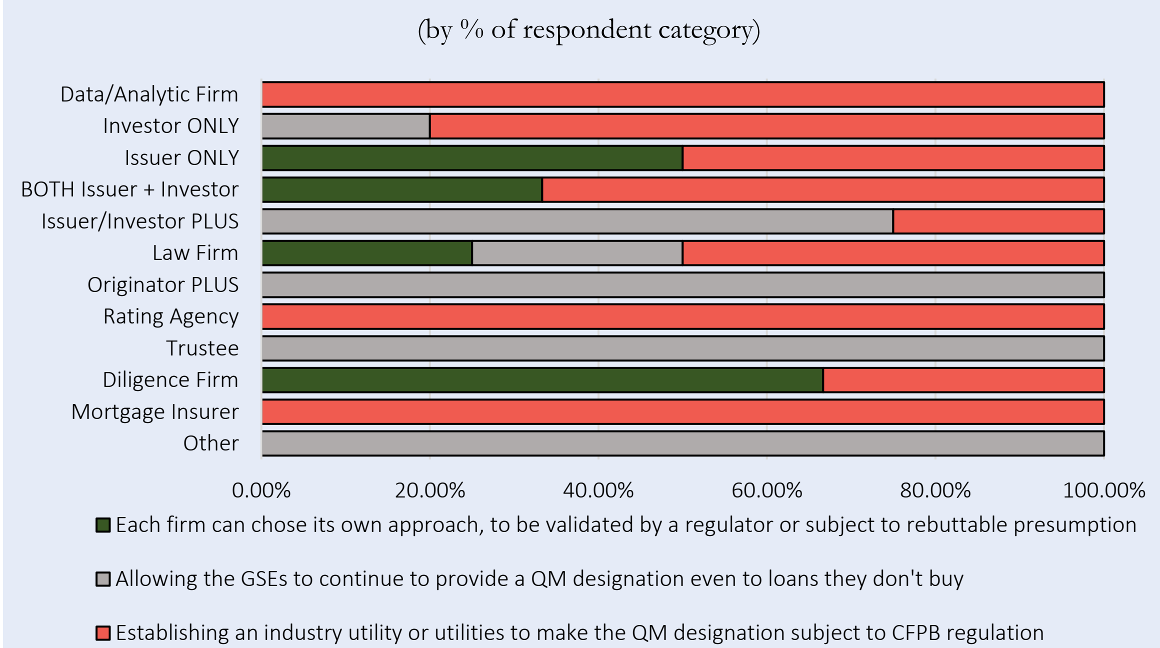
Assuming an AUS is in place, a slight majority favor an industry-wide utility function regulated by the CFPB.

As depicted in the top chart, **assuming the rules called for an AUS to employ compensating factors**, about 54% favored establishing **an industry-wide utility**, while

- 29% favor the GSEs making that determination (even for loans they do not purchase)
- 18% favor allowing individual firms choose their own approach

- However, as shown in the lower chart, a majority of originators, issuers, and due diligence firms an alternate approach.



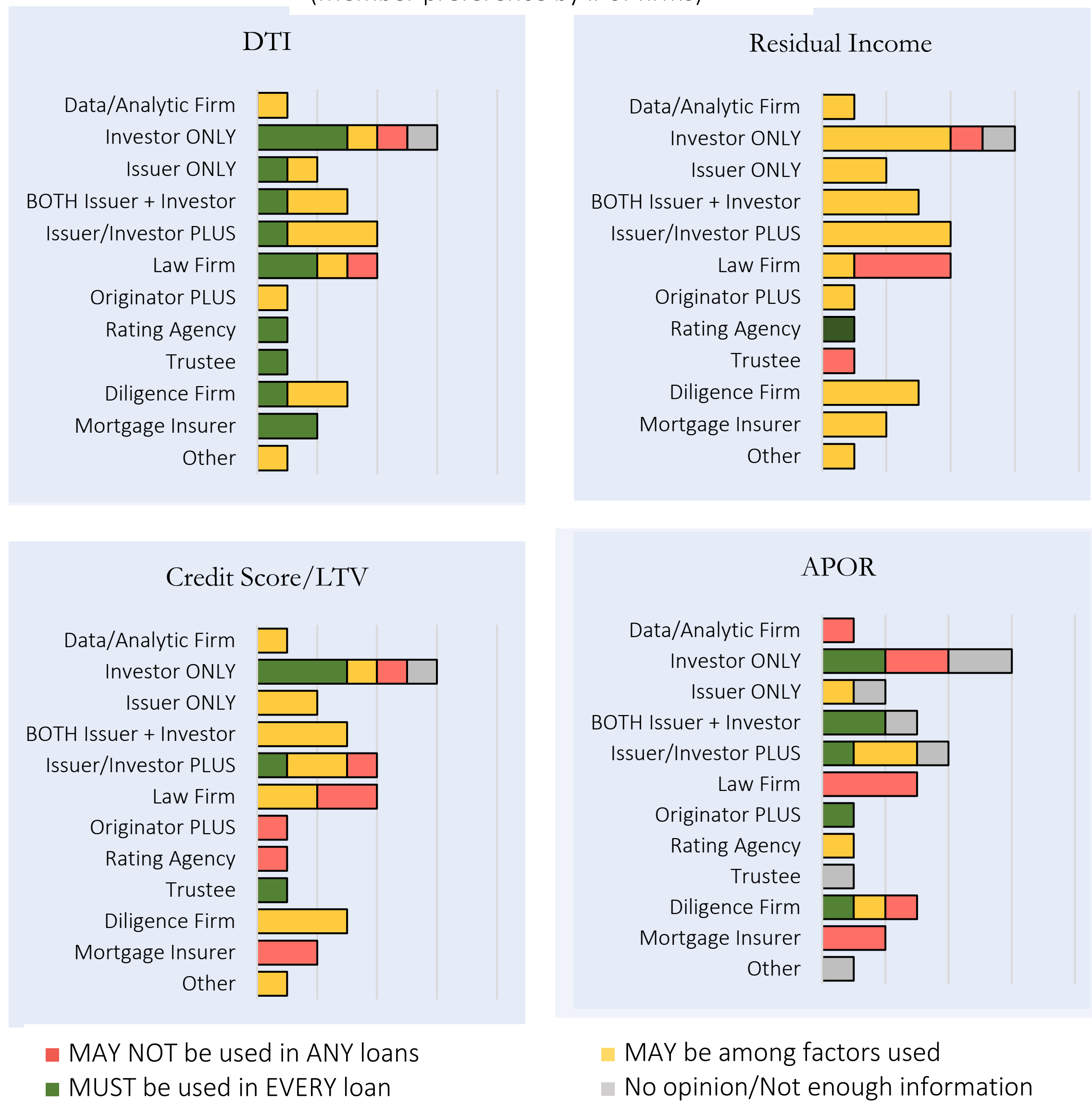


AUS-based Approach for Determination of QM Status

Assuming the CFPB mandates and allows compensating factors to be used to establish QM status, which credit factors should be used and how?

- **DTI**: 45% said it must be among compensating factors used, 45% said it may be used, 10% said it should not be used
- **Residual Income**: 76% said it must be among compensating factors used, 3% said it may be used, 17% said it should not be used
- **Credit Score/LTV**: 17% said it must be among factors used, 51% said it may be used, and 28% said it should not be used
- **APOR Threshold**: 32% said it should not be used, 24% saying it must be used, 18% saying it may be used, and 25% saying they did not have enough information

(Member preference by # of firms)



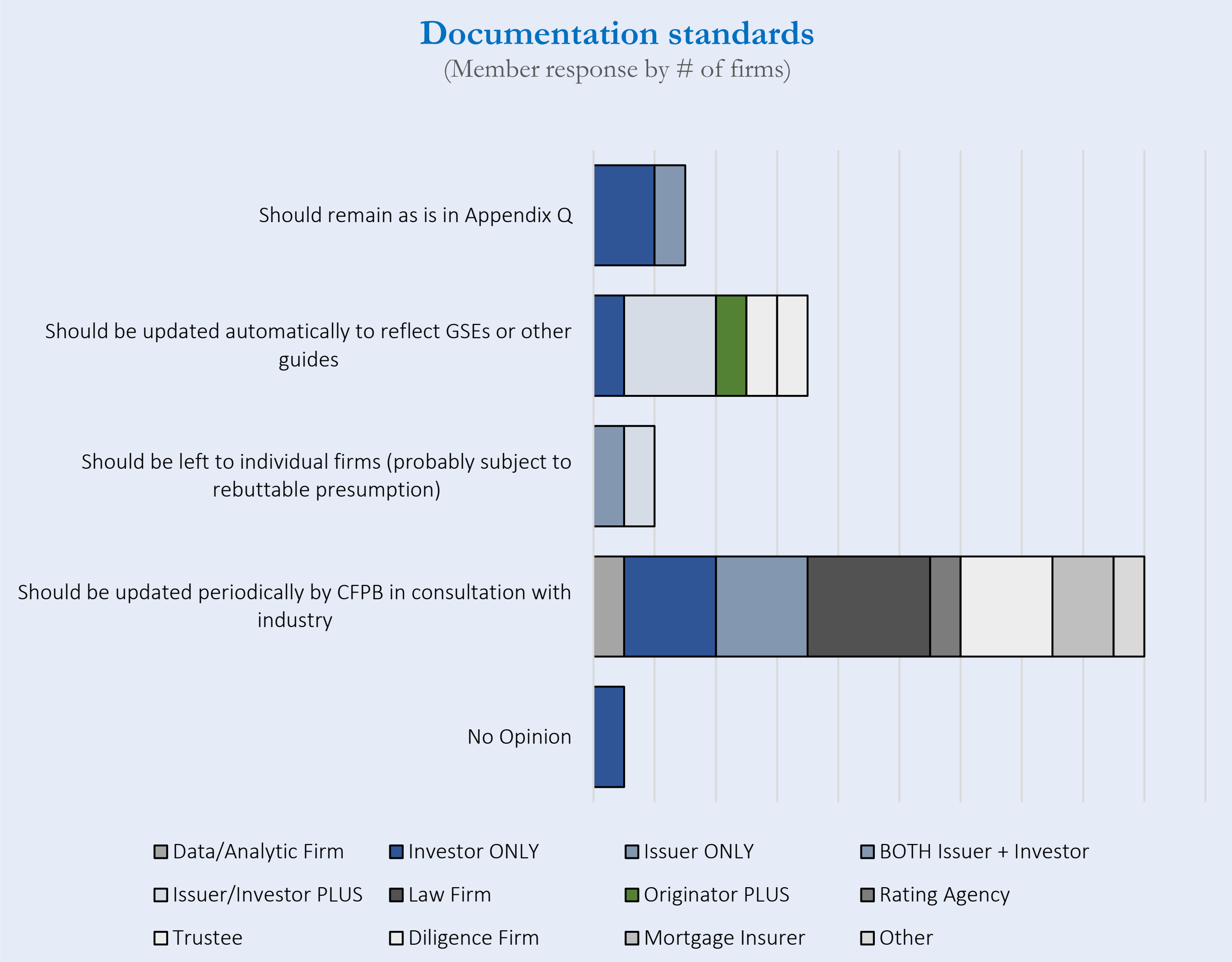
Clarity in Applying Documentation and Verification Rules

How should documentation standards be established?

SFA members believe CFPB needs to provide more clarity to define income and guidance for how to document and verify that income, though some members cautioned that having the CFPB be overly prescriptive—especially in the context of ATR compliance—might unduly constrain originators.

- Given the survey options, most respondents favor an approach where the CFPB updates industry-wide definitions and means of verification on an ongoing basis and in consultation with industry, as depicted in the chart to the right.
- A minority favor deferring to GSEs or allowing individual firms to set their own definitions that would grant a presumption of compliance with QM.

Such definitions and means of verification could be used both in the determination of QM vs. non-QM as well as in context of ATR compliance.



Survey Definitions

Classifications of SFA members responding to QM survey

Definitions

Investor ONLY: Respondents indicated their role in the market is solely as an Investor in the residential mortgage and/or RMBS market – not as an Originator of mortgage loans or Issuer of RMBS.

Issuer ONLY: Respondents indicated their role in the market is solely as an Issuer of RMBS.

Originator PLUS: Respondents indicated their role in the market is solely as an Originator of residential mortgages. Note the respondent also selected servicer – but not Investor or Issuer.

BOTH Issuer + Investor: Respondents indicated their role in the market is both as an Investors and Issuer – but not other role.

Issuer/Investor PLUS: Respondents indicated their role in the market is as an Issuer, Investor, as well as other roles, such as originator, broker-dealer and servicer.