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NOTICE TO: Brokers and Non-Delegated Correspondents

Truth In Lending (Regulation Z) Qualified Mortgage Rule/Ability To Repay Requirements and Deadlines

In late May 2021, Fannie Mae and Freddie Mac (the “GSEs”) advised of their requirements and deadlines to implement the Consumer Financial Protection Bureau’s (CFPB’s) final rules under TILA/Reg Z’s Ability To Repay/Qualified Mortgage (ATM/QM) Rule, which was issued and finalized in January 2013 and again on December 10, 2020.

For the full rule see <https://www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/ability-repay-qualified-mortgage-rule/>.

All Mortgages originated and closed in accordance with the Agencies guidelines and the Temporary ATR/QM rule (known as the GSE Patch) are considered Qualified Mortgages for loan applications taken before July 1, 2021.

Whereas for loan applications taken on or after July 1, 2021, Fannie Mae, Freddie Mac and Elite Jumbo loans will no longer be permitted under the Temporary Qualified Mortgage rule (the GSE Patch) and must comply with the Revised Final General Qualified Mortgage Rule as required in the table below:

Product	Rule Application
Conventional	Final Revised QM Rule, Safe Harbor and/or Rebuttable Presumption allowed
FHA	GSE Patch
VA	GSE Patch
USDA	GSE Patch
Jumbo Elite	Final Revised QM Rule, Must meet Safe Harbor, Rebuttable Presumption NOT allowed
Jumbo Preferred	GSE Patch

Under the revised final rule, there are two pertinent categories for Qualified Mortgages that are presumed to comply with the Ability to Repay requirements:

- General QM and Safe Harbor Loans: A safe harbor QM loan is one that is not a “Higher Priced Mortgage Loan” (HPML) or Higher Priced Covered Transaction (HPCT).
- QM Rebuttable Presumption Loans: A rebuttable presumption QM loan may be a “Higher Priced Mortgage Loan” (HPML) or a Higher Priced Covered Transaction (HPCT).

The Annual Percentage Rate (APR) to Average Prime Offer Rate (APOR) threshold required by the revised General Qualified Mortgage Rule.

Loan Amount	APR – APOR Threshold	QM Category
Any loan amount	< 1.5%	QM Safe Harbor
≥ \$110,260	1.5% to < 2.25%	QM Rebuttable Presumption - HPML/HPCT*
≥ \$66,156 but < \$110,625	1.50% to < 3.50%	QM Rebuttable Presumption - HPML/HPCT*
< \$66,156	1.50% to < 6.50%	QM Rebuttable Presumption - HPML/HPCT*

*As defined below.

Higher Priced Mortgage Loan (HPML) is defined as a first-lien Mortgage secured by a Primary Residence that has an annual percentage rate (APR) of 1.5% or more above the average prime offer rate (APOR) for a comparable transaction as of the rate lock date. APR and APOR are both defined in Regulation Z of the Board of Governors of the Federal Reserve System. The APOR is published at least weekly by the Federal Reserve Board and is derived from pricing terms obtained from a survey of prime mortgage lenders. An HPML does not include a second home or Investment Property.

Higher Cost Covered Transaction (HPCT) is a first-lien Mortgage secured by a Primary Residence, a second home or Investment Property not exempt from ability-to-repay requirements under the Truth-in-Lending Act and its implementing regulations that has an annual percentage rate (APR) of 1.5% or more above the average prime offer rate (APOR) for a comparable transaction as of the rate lock date. APR and APOR are both defined in Regulation Z of the Board of Governors of the Federal Reserve System. The APOR is published at least weekly by the Federal Reserve Board and is derived from pricing terms obtained from a survey of prime mortgage lenders. For purposes of this Guide, a *Higher-Priced Covered Transaction that is secured by a Primary Residence is also a Higher-Priced Mortgage Loan.*

Rebuttable Presumption QM loans defined under HPML and HPCT are eligible for financing with loan applications dated on or after July 1, 2021 under FLCBank's Conventional Products. A Rebuttable Presumption loan will require an assessment for residual income levels by FLCBank during the underwriting process and require the following documentation and testing results:

- AUS Approval,
- QM Designation of Safe Harbor or Rebuttable Presumption based on APR to APOR Spread,
- QM Ability to Repay requirements are met: Income and debt underwriting assessment must be documented with the appropriate worksheets,
- Residual Income Calculation,
- Escrows/Impounds are required for property taxes, homeowner, and flood insurance regardless of LTV on Primary Residences,
- The consumer cannot waive the right to receive a copy of the appraisal and any other valuation three business days prior to loan closing/consummation [no exceptions (§1026.35(c)(6)(i))].
- The creditor must have evidence that all compliance and regulatory items were met through loan funding.

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Mortgage Loans originated under the Rebuttable Presumption QM loan designation require confirmation the consumer meets the regulatory Residual Income requirements noted below:

Occupancy	Monthly Residual Income**	Guideline
Primary Residence	\$2,500 or greater	There are no additional reserves to be documented other than the reserves required by the loan program
	Greater than \$800 but less than \$2,500	Reserves required must be the greater of: <ul style="list-style-type: none">• Three (3) months liquid PITIA reserves, or• Minimum reserve for the base loan program.
	Less than \$800	The loan is not eligible for financing
Second Homes and Investment Properties	\$2,500 or greater	There are no additional reserves to be documented other than the reserves required by the loan program
	Less than \$2,500	The loan is not eligible for financing

**Rebuttable Presumption Residual Income worksheet is posted in the Resource Center.

The amended QM Final Rule does not change the CFPB's QM points and fees or High-Cost Mortgage calculations or thresholds, nor FLCBank's related requirements and High-Cost Mortgages remain ineligible for financing.

We will continue to keep you informed of our changes to procedures and of any updates to deadlines as we move through the implementation of the new rules. If you have questions, please contact your Account Executive.

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