

July 8, 2021

Frequently Asked Questions: Qualified Mortgages

Reminder: Determination of regulatory compliance

Freddie Mac will not make the determination of whether a mortgage, including a mortgage assessed through Loan Product Advisor® (LPA) or LPA Asset and Income Modeler (AIM), or delivered through Loan Selling Advisor®, complies with or is exempt from the ATR/QM Rule, including the Revised General QM Rule, or whether a Seller's designation of the status of a mortgage under the Revised General QM Rule is correct. These determinations of compliance with the Revised General QM Rule and other applicable laws are the Seller's responsibility.

General

Q1: [07.07.21] Will Freddie Mac and Fannie Mae be aligned in their implementation?

Yes, based on guidance from the Federal Housing Finance Agency (FHFA), Freddie Mac and Fannie Mae (GSEs) generally are aligned in their approach and implementation, although some implementation differences may be necessary based on existing GSE-specific requirements. For example, due to differing Guide requirements for ARMs with initial fixed periods within a range of dates, the GSEs have addressed this issue differently.

Q2: [07.07.21] Does Freddie Mac have a list of loans that are classified as TILA Exempt or ATR Exempt mortgages?

No. The Seller must determine whether the mortgage is classified as TILA Exempt or ATR Exempt. Freddie Mac cannot provide regulatory interpretations or advice. Please consult with regulatory counsel regarding the TILA requirements and related staff commentary.

Note: Sellers are required under Section [5801.1](#) of the *Single-Family Seller/Servicer Guide* (Guide) to provide a variety of data points in the Uniform Closing Dataset (UCD) file, including whether a loan is ATR Exempt or not. Please see the UCD technical specifications for field code 3.027 and 3.028.

Q3: [07.07.21] The CFPB extended the mandatory effective date for compliance with the Revised General Qualified Mortgage Rule until October 2022. Why is Freddie Mac not extending the settlement date deadline (originally communicated in [Bulletin 2021-13](#)) for loans originated in accordance with the GSE Patch as a result?

While the Consumer Financial Protection Bureau (CFPB) has extended the mandatory compliance date for the Revised General QM Rule, the March 1, 2021, effective date of the rule did not change. There are separate requirements imposed upon the GSEs under the terms of the amended PSPA (Section 5.14) between the U.S. Department of Treasury and each of the GSEs. One of those requirements is that each loan acquired by the GSEs must be a qualified mortgage under the Revised General QM rule (with limited exceptions). Compliance with this provision is required by July 1, 2021. CFPB's extension of the mandatory compliance date for the Revised General QM Rule does not change the GSE July 1, 2021 compliance date under the PSPA.

Q4: [07.07.21] Is there any flexibility to the settlement date cutoff of August 31, 2021 for mortgages with application received dates on or before June 30?

The delivery deadlines represent aligned policy between Fannie Mae and Freddie Mac, under the guidance of FHFA, to ensure compliance with Section 5.14 of the PSPA.

Please continue to monitor the online FAQs as the PDF and the HTML FAQs may be updated on an ongoing basis.

Sellers are reminded that mortgages with application received dates prior to July 1 (including those with application received dates prior to the revised QM effective date of March 1, 2021) that meet the requirements of the Revised General QM Rule are eligible for purchase after August 31. Loans that are only eligible under the GSE Patch (and are not also compliant with the Revised General QM Rule) must be purchased by August 31.

Exception: Construction Conversion mortgages that are documented using Integrated Documentation or Modification Documentation without a new note with application received dates prior to July 1, 2021 that meet the QM Patch (and do not meet the Revised General QM Rule) can be purchased until February 28, 2022.

Credit Related

Q1: [07.07.21] Will Freddie Mac continue to purchase higher priced covered transactions (HPCTs) that are subject to the rebuttable presumption criteria in the ATR Rule?

Yes, Freddie Mac continues to purchase HPCTs. Refer to Guide Section [4202.5](#) for additional information about HPCTs.

Q2: [07.07.21] Are Housing Finance Agency (HFA) loans subject to the points and fees and APR-APOR spread requirements?

Sellers should refer to the ATR provisions of Regulation Z to determine if a loan meets the HFA exemption, including for loans that are not originated directly by a Housing Finance Agency. Those loans that do meet the exemption requirements fall under the definition of an exempt Loan, defined in Bulletin [2021-19](#). The requirements related to maximum points and fees and APR-APOR spread for exempt loans are described in Bulletin [2021-19](#).

Q3: [07.07.21] The Revised General QM Rule for the “verify” provision includes commentary (1026.43 (e)(2)(v)(B)-3.i) that cites Guide Chapters 5102 through 5500, published June 10, 2020. This citation states that using these chapters in the Guide meets the standards for verifying current or reasonably expected income or assets using third-party records and provides a creditor with reasonably reliable evidence of the consumer’s income or assets. Where may I find this version of the Guide?

Guide Chapters 5102 through 5500, dated 6/10/2020, may be accessed under “Historical Guide Snapshot PDFs” using the following link: <https://sf.freddiemac.com/tools-learning/sellerservicer-guide/historical-guide-snapshot-pdfs>

Q4: [07.07.21] The Revised General QM Rule for the “verify” provision includes commentary (1026.43(e)(2)(v)(B)-3.iv) that states if revisions are made to Guide Chapters 5102 through 5500, the creditor still complies with the “verify” provision if the revisions are “substantially similar” to the version published June 10, 2020. As a Seller, may I presume revisions Freddie Mac publishes after June 10, 2020 meet the CFPB’s “substantially similar” conditions and that I have met the associated portion of the Revised QM Rule requirements?

No. Freddie Mac will not interpret the regulatory meaning of “substantially similar” for Sellers. Sellers may, at their discretion, reach out to the CFPB for any questions or concerns related to the “substantially similar” text within the regulatory commentary or any other questions related to the text within the Revised QM Rule and associated preamble.

Reminder: *Freddie Mac will not make the determination of whether a mortgage, including a mortgage assessed through LPA or LPA AIM, or delivered through Loan Selling Advisor®, complies with or is exempt from the ATR/QM Rule, including the Revised General QM Rule, or whether a Seller’s designation of the status of a mortgage under the Revised General QM Rule is correct. These determinations of compliance with the Revised General QM Rule and other applicable laws are the Seller’s responsibility.*

Q5: [07.07.21] If, based on the Revised General QM Rule, an ARM can be restructured to have a qualifying rate that is lower than what is required by the Guide, may the lower rate be used to qualify the borrower?

No. The Guide requirements must always be met. For all ARMs, the qualifying rate must, at a minimum, equal the maximum interest rate that may apply during the first five years after the date on which the first regular periodic payment will be due, based on the full loan amount over the loan term. If the Guide requirements are more restrictive than the Revised General QM Rule, then the Guide requirements must be met.

For example, 5/6 SOFR ARMs with initial fixed rate periods of 61-66 months must meet the same credit qualifying rate of the Revised General QM Rule applicable to 5/6 SOFR ARMs with an initial fixed rate periods of 55-60 months.

Q6: [07.07.21] May I rely on the LPA messaging to determine that mortgages are compliant with the Revised General QM Rule and eligible for delivery to Freddie Mac?

No. LPA does not determine QM status. Freddie Mac will not make the determination of whether a mortgage, including a mortgage assessed through LPA or LPA AIM, or delivered through Loan Selling Advisor®, complies with or is exempt from the ATR/QM Rule, including the Revised General QM Rule, or whether a Seller's designation of the status of a mortgage under the Revised General QM Rule is correct. These determinations of compliance with the Revised General QM Rule and other applicable laws are the Seller's responsibility.

Q7: [07.07.21] If I have a 1/1 or 3/1 CMT-indexed ARM that is eligible for sale through September 2021, must the requirements for the higher qualifying rate based on the Revised General QM Rule be met if the loan is not delivered by August 31, 2021?

Yes. Refer to Bulletin [2021-19](#), which states that CMT-indexed ARMs would no longer be purchased on and after October 1, 2021. For all mortgages that are 1/1 or 3/1 CMT-indexed ARMs with settlement dates after August 31, 2021, the borrower must be qualified using the note rate plus the life cap. Refer to Bulletin [2021-4](#) for additional information.

Since the Seller is responsible for the accuracy and completeness of the data it submits to LPA, if the mortgage is being sold to Freddie Mac after August 31, 2021, it must be resubmitted to LPA with the revised qualifying rate.

Note: Sellers are responsible for ensuring that the correct qualifying rates are used by LPA.

Systems Updates

Q1: [07.07.21] Will Freddie Mac update its systems to reflect changes in the QM definition?

Our systems test loans against our purchase requirements. We do not use our systems to enforce compliance with industry regulations and applicable law. Instead, we rely on our clients' representations and warranties with regard to compliance with applicable law as outlined in Guide Section [1301.2](#). Clients should check with their legal counsel on how to comply with the Revised General QM Rule.

We are working to update our systems to perform an automated check of the APR-APOR thresholds and points and fees defined in Bulletin [2021-19](#). We will utilize the UCD and ULDD datasets (aligned with Fannie Mae) as provided to perform the automated checks at time of delivery/purchase to prevent delivery/purchase of a mortgage that violates the APR/APOR and points and fees limitations. The automated check for APR-APOR spread is expected to be implemented prior to September 01, 2021. An automated check for points and fees will follow.

Others

Q1: [07.07.21] If I structure a 5/6 ARM to have an initial fixed rate period of 61-66 months, do I have to calculate a separate APR under the Revised General QM Rule's requirements pertaining to short-term ARM's that have an initial fixed interest rate period that is 60 months or less from the first payment due date?

Yes. While we are unable to provide legal or regulatory advice on the application of the Revised General QM Rule, please note that from a contractual perspective, as set forth in Bulletin [2021-19](#), we have stated:

"For 5/6-Month SOFR and 5-1 CMT ARM's with initial fixed rate periods of 61 to 66 months that are ATR Covered Mortgage's, Sellers must assume that the first interest rate change occurs within five years of the first payment Due Date when calculating the APR for APR-APOR threshold purposes. We will provide data delivery requirements at a later date for how Sellers are to deliver this specially calculated APR data point for such short-term ARM's that are ATR Covered Mortgage's."

Q2: [07.07.21] What is the APOR and what index is it based on?

The average prime offer rate (APOR) is a survey-based estimate of annual percentage rates (APRs) currently offered on prime mortgage loans. It is used to calculate "rate spread" for Home Mortgage Disclosure Act (HMDA) reporting purposes and to determine whether the loan is a higher priced mortgage loan under Regulation Z. APOR is calculated and published weekly by the Federal Financial Institutions Examination Council (FFIEC).

Under UCD requirements, clients must submit the "rate spread" (difference between the APR and APOR reported under the HMDA, as well as whether a loan is ATR Exempt or subject to ATR. These UCD data points can help clients determine compliance with the revised definition of QM. For more information, see our UCD [webpage](#). The UCD reporting file is available at Appendix I – Uniform Closing Dataset.

We are working with Fannie Mae to update data reporting requirements for Sellers to provide the unique QM APR calculation required for short-term ARM's (3/6 & 5/6 SOFR ARM's) when such mortgage's are subject to the Revised General QM Rule. We anticipate a new field to be added to the Uniform Closing Dataset. We will notify Sellers of updated data reporting requirements in a future Bulletin.