



1700 G Street NW, Washington, DC 20552

October 20, 2020

Executive Summary of the October 2020 Amendments to the ATR/QM Rule

On October 20, 2020, the Consumer Financial Protection Bureau (Bureau) issued a final rule (Patch Extension Final Rule or Final Rule) amending the Ability-to-Repay/Qualified Mortgage Rule (ATR/QM Rule). The Patch Extension Final Rule is available on the Bureau's website at <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/qualified-mortgage-definition-under-truth-lending-act-regulation-z-extension-sunset-date/>.

Background

With certain exceptions, the ATR/QM Rule requires creditors to make a reasonable, good faith determination of a consumer's ability to repay a residential mortgage loan and provides certain protections from liability for residential mortgage loans that meet the ATR/QM Rule's requirements for "qualified mortgages" or "QMs." The ATR/QM Rule also establishes different categories of QMs.

One QM category is the General QM category. For a residential mortgage loan to fit within the General QM category, the ratio of the consumer's total monthly debt to total monthly income (DTI ratio) must not exceed 43 percent, and the creditor must calculate, consider, and verify debt and income for purposes of determining the consumer's DTI ratio using the standards contained in Appendix Q of Regulation Z.¹ A second, temporary category of QMs consists of

This is a Compliance Aid issued by the Consumer Financial Protection Bureau. The Bureau published a Policy Statement on Compliance Aids, available at <http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/policy-statement-compliance-aids/>, that explains the Bureau's approach to Compliance Aids.

¹ To fit within the General QM category, the loan also must comply with the ATR/QM Rule's prohibitions on certain loan features, its points-and-fees limits, and its underwriting requirements.

residential mortgage loans that, among other things, are eligible to be purchased or guaranteed by Fannie Mae or Freddie Mac (collectively, the government sponsored enterprises or GSEs).² This temporary category of QMs, which is sometimes referred to as the “Temporary GSE QM” category or as the GSE Patch, is set to expire on January 10, 2021 (i.e., the sunset date) or when the GSEs exit conservatorship, whichever comes first.

On June 22, 2020, the Bureau issued two notices of proposed rulemaking. First, the Bureau issued the Patch Extension NPRM, which proposed to amend the sunset date for the Temporary GSE QM category and to make conforming changes to the commentary. Second, the Bureau issued the General QM NPRM, which proposed to amend the requirements for the General QM category. Additionally, on August 18, 2020, the Bureau issued a separate notice of proposed rulemaking, the Seasoned QM NPRM, which proposed to add Seasoned QMs as a new category of QMs.

Extension of the Sunset Date for Temporary GSE QMs

The Patch Extension Final Rule extends the sunset date for the Temporary GSE QM category, but it does not amend the provision stating that the Temporary GSE QM loan category expires when the GSEs exit conservatorship. Thus, under the Final Rule, the Temporary GSE QM category will expire on the earlier of: (1) the mandatory compliance date of the final rule amending the General QM loan definition; or (2) the date that the GSEs exit conservatorship.

The Patch Extension Final Rule provides that the Temporary GSE QM loan category is available for a loan if the creditor receives the consumer’s application before the mandatory compliance date of a final rule amending the General QM loan definition and the loan is consummated before the GSEs exit conservatorship. For purposes of the Temporary GSE QM sunset date, if a loan is subject to the TILA-RESPA Integrated Disclosures Rule (TRID Rule), the term “application” has the same meaning as it does for the TRID Rule.³ If the loan is not subject to the TRID Rule (e.g., it is secured by a dwelling but is not secured by real property), the creditor may apply the TRID Rule’s definition of “application” or may use the general Regulation Z definition of “application” set forth in 12 CFR §1026.2(a)(3)(i). As detailed in an unofficial redline available at <http://www.consumerfinance.gov/policy-compliance/guidance/mortgage-resources/ability-repay-qualified-mortgage-rule/>, the Patch Extension Final Rule makes conforming amendments to the commentary.

² To fit with the Temporary GSE QM loan category, the loan also must comply with the ATR/QM Rule’s prohibitions on certain loan features and its points-and-fees limits but need not meet a 43 percent DTI limit.

³ This definition of application is set forth in 12 CFR §1026.2(a)(3)(ii).

The Patch Extension Final Rule does not affect QMs made pursuant to the rules of the Federal Housing Administration, the United States Department of Veterans Affairs, or the United States Department of Agriculture. Additionally, the expiration of the Temporary GSE QM category will not affect the QM status of a loan if the creditor made the loan or received the consumer's application for the loan prior to the extended sunset date. Thus, if a creditor receives an application for a loan prior to the expiration of the Temporary GSE QM category and that loan satisfies the criteria for Temporary GSE QMs, the loan will be a Temporary GSE QM for the remainder of the loan's term.

The Patch Extension Final Rule does not address the amendments proposed in the General QM NPRM or the Seasoned QM NPRM. The Bureau will address those proposed amendments at a later time.