



Bulletin 2021-19

Additional Updates in Response to the PSPA and the Revised General QM Rule

Issued 05/26/2021

TO: Freddie Mac Sellers

SUBJECT: ADDITIONAL UPDATES IN RESPONSE TO THE PSPA AND THE REVISED GENERAL QM RULE

The Consumer Financial Protection Bureau (CFPB) recently amended the QM requirements of the Ability to Repay (ATR) rule, which generally requires a Seller to make a reasonable, good faith determination of a Borrower's ability to repay before originating a Mortgage and establishes certain protections from liability for QMs. In consultation with the FHFA, Freddie Mac and Fannie Mae have worked together in an effort to align updated requirements in connection with the PSPA and Revised General QM Rule.

This Guide Bulletin updates our requirements in response to the PSPA and the Revised General QM Rule and specifies which Mortgages Freddie Mac will continue to purchase and under what conditions those Mortgages may be purchased. Specifically, this Guide Bulletin announces:

- [Definitions related to the ATR/QM Rule](#)
- [Eligibility requirements for ATR Covered Mortgages and Exempt Mortgages](#)
- [Guide requirement updates in support of the ATR/QM Rule](#)
- [Negotiated provisions](#)
- [Reminders and additional updates](#)

EFFECTIVE DATE

Pursuant to the PSPA and the Revised General QM Rule discussed in [Bulletin 2021-13](#), unless otherwise stated, all of the changes announced in this Bulletin are effective for Mortgages with Application Received Dates on or after July 1, 2021, and all Mortgages with Settlement Dates after August 31, 2021.

In addition, ATR Covered Mortgages that have Application Received Dates prior to March 1, 2021 and were originated using the GSE Patch requirements must also meet the Revised General QM Rule if they have Settlement Dates after August 31, 2021

GSE Patch Exception

We will continue to purchase the following ATR Covered Mortgages originated under the GSE Patch: 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 and Settlement Dates before March 1, 2022.

DEFINITIONS RELATED TO THE ATR/QM RULE

Capitalized terms used in this Bulletin and which are not defined in the [Glossary](#) have the following meanings:

Term	Definition
ATR Covered Mortgage	An ATR Covered Mortgage is a consumer credit transaction secured by a dwelling that is not an Exempt Mortgage.
ATR/QM Rule	The Truth in Lending Act contains provisions specifically addressing the determination that a creditor must make regarding a borrower's ability to repay a mortgage loan. These provisions are implemented in Regulation Z's ATR rule (12 C.F.R. § 1026.43). QMs are a subset of loans under the ATR requirements.

Term	Definition
Exempt Mortgage	There are two classifications of Exempt Mortgages, as follows: <ul style="list-style-type: none"> ▪ TILA Exempt Mortgage: A TILA Exempt Mortgage is a Mortgage exempt from TILA and, as such, is exempt from the ATR requirements in Regulation Z. TILA Exempt Mortgages include business purpose loans as defined in 12 C.F.R. § 1026.3. ▪ ATR Exempt Mortgage: An ATR Exempt Mortgage is a Mortgage that is exempted, within the ATR rule in 12 C.F.R. § 1026.43(a)(3), from the ATR requirements in Regulation Z
GSE Patch	GSE Patch refers to the CFPB temporary QM rule definition in Regulation Z, C.F.R. § 1026.43(e)(4), that became effective January 10, 2014.
PSPA	Amended Senior Preferred Stock Agreement by and between Freddie Mac and the U.S. Department of the Treasury.
QM	A Qualified Mortgage as defined in the ATR/QM Rule.
Revised General QM Rule	Revised General QM Rule refers to the CFPB QM rule in Regulation Z, C.F.R. § 1026.43(e)(2) that became effective on March 1, 2021.

ELIGIBILITY REQUIREMENTS – ATR COVERED MORTGAGES AND EXEMPT MORTGAGES

ATR Covered Mortgages

- All ATR Covered Mortgages must meet Guide and Purchase Document requirements
- All ATR Covered Mortgages must meet the requirements of the Revised General QM Rule

Revised General QM Rule and Purchase Document Requirements Reference Summary ¹			
Regulatory Section Reference ²	Requirement	2021 Rule Revision?	Change to Seller Contractual Obligations?
1026.43(e)(2)(i)	Mortgage must be fully amortizing	No change from 2013	No change from 2013
1026.43(e)(2)(ii)	Mortgage term cannot exceed 30 years	No change from 2013	No change from 2013
1026.43(e)(2)(iii)	Points and fees (1026.43(e)(2)(iii))	No change from 2013	No change from 2013
1026.43(e)(2)(iv)	Mortgage must meet underwriting requirements for mortgage-related obligations, including taking into account the maximum interest rate that may apply during the first five years after the date on which the first payment will be due	No change from 2013	Newly applicable
1026.43(e)(2)(v)	Mortgage must meet consider and verify requirements	Revised 2021	Newly applicable
1026.43(e)(2)(vi)	Mortgage must not exceed APR-APOR QM spread thresholds as dictated by the <i>Revised General QM Rule</i>	Revised 2021	Newly applicable

¹Chart is included for illustrative purposes only. Sellers remain responsible for compliance with all aspects of the ATR/QM Rule.

²Regulatory Section References are to the Revised General QM Rule at 12 C.F.R. § 1026.43.

Exempt Mortgages

- All Exempt Mortgages must meet Guide and Purchase Document requirements
- Exempt Mortgages are not subject to the Revised General QM Rule; however, they must meet the Points and Fees requirements in [Guide Section 4202.6](#) and the APR/APOR threshold requirements set forth below for Exempt Mortgages

Sellers continue to remain responsible for determining whether or not the Mortgage is exempt from the ATR/QM Rule.

GUIDE REQUIREMENT UPDATES IN SUPPORT OF THE ATR/QM RULE

The following Guide requirement updates will be made to further support the Revised General QM Rule requirements; however, Sellers remain solely responsible for determining compliance with the ATR/QM Rule. Refer to [Determination of regulatory compliance](#) for additional information.

APR-APOR threshold limits

- There are two thresholds for the applicable APR-APOR spread:
 1. **ATR Covered Mortgages:** The Mortgage's APR will not exceed the APOR by 2.25 percentage points or more or such other applicable threshold as specified in the Revised General QM Rule for ATR Covered Mortgages, calculated in accordance with the provisions of that rule; and
 2. **Exempt Mortgages:** The Mortgage's APR will not exceed the APOR by 6.5 percentage points or more for first lien TILA Exempt and ATR Exempt Mortgages

Note: The total points and fees and APR are calculated in accordance with the regulatory provisions of the Homeownership and Equity Protection Act (HOEPA) in TILA (12 C.F.R. § 1026.32) except as noted below for short-term ARMs (i.e., 3/6-Month SOFR, 3/1 CMT, 5/6-Month SOFR or 5/1 CMT ARMs).

- **Short-term ARMs QM APR Calculation:** For all ARMs with an initial fixed period of five years or less that are ATR Covered Mortgages, Sellers must calculate the APR in accordance with the Revised General QM Rule in addition to calculating APR pursuant to HOEPA and its implementing regulations

Note: When calculating the APR for APR-APOR threshold purposes for 3/6-Month SOFR, 3/1 CMT, 5/6-Month SOFR or 5/1 CMT ARMs that are ATR Covered Mortgages, Sellers must calculate the APR using 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. In addition, for 5/6-Month SOFR and 5-1 CMT ARMs with initial fixed rate periods of 61 to 66 months that are ATR Covered Mortgages, 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 ARMs that are ATR Covered Mortgages.

Future Guide impact: [Guide Chapter 4202](#)

ARMs

Qualifying rate revision for 3/6-Month SOFR ARMs

The following chart reflects qualifying rate requirements for all SOFR indexed ARMs. The qualifying rate that must be used when calculating the monthly debt payment-to-income ratio for the 3/6-Month SOFR ARM is revised, as follows:

SOFR ARM	Borrower Qualified at no less than the:	Revised
3/6-Month ARM	<p>Revised Requirement: Note Rate plus Life Cap (5%)</p> <p>Current Requirement: Greater of the Note Rate plus two percentage points or the fully indexed rate</p>	Yes
5/6-Month ARM	Greater of the Note Rate plus 2% or the fully indexed rate	No
7/6-Month ARM 10/6-Month ARM	<ul style="list-style-type: none"> ▪ Note Rate for non-HPCT/HPML ▪ Greater of the Note Rate or the fully indexed rate for HPCT/HPML 	No

Note: Freddie Mac announced in [Bulletin 2021-4](#) 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.

Future Guide impact: [Section 4401.8](#)

Enhanced Relief Refinance® Mortgages

Due to extremely low volume and the impact of the Revised General QM Rule, including the consider and verify components, Freddie Mac is pausing its purchase of Enhanced Relief Refinance Mortgages until further notice. Over the coming months, we will be working with Fannie Mae, in consultation with the FHFA, to determine how to modify the terms of this program. We will communicate any changes in a future Bulletin.

Future Guide impacts: [Chapter 4304](#), [Section 6302.40](#) and [Guide Exhibit 19](#)

Representation and warranty framework – Version 2 as set forth in Section 1301.11

Sellers will be responsible for representations and warranties related to requirements set forth in this Bulletin for the life of the loan and Freddie Mac's rights to exercise remedies related to violations of these requirements will not be waived.

Future Guide impact: [Chapter 4202](#)

Responsible lending

In addition to ensuring compliance with the Guide and applicable laws, Sellers must ensure that any ATR Covered Mortgages meet the Revised General QM Rule, even if the Seller is not required by law or regulation to comply with the Revised General QM Rule.

NOTICE OF CHANGES TO CERTAIN NEGOTIATED PROVISIONS

This paragraph serves as notice to Sellers with Purchase Documents that contain one or more negotiated provisions with terms that are inconsistent with the requirements of this Bulletin. The requirements of this Bulletin, and any related future Guide updates, supersede any such terms as of this Bulletin's effective date.

REMINDERS AND ADDITIONAL UPDATES

Reminders

Determination of regulatory compliance

Freddie Mac will not make the determination of whether a Mortgage, including a Mortgage assessed through Loan Product Advisor® 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.

Uniform Closing Dataset (UCD) Data

Sellers are reminded of the current [Section 5801.1](#) requirement to deliver in the UCD file (submitted to us at or before loan delivery) a number of data elements related to QM, including the method by which the creditor satisfied the ATR requirements or reason for exemption, and the APR and APOR percentages.

Term

Sellers must structure any Interim Construction Financing to be exempt from the ability to repay provisions of Regulation Z, Section 1026.43(a)(3) so that the Mortgage term does not exceed 30 years.

Additional updates

First interest change date for 5/6-Month SOFR ARMs

For all Mortgages, the permissible period between the first payment Due Date and the first interest change date is revised from 54 to 66 months to 55 to 66 months.

Future Guide impact: [Section 4401.5\(a\)](#)

Assumptions

Sellers must comply with the Revised General QM Rule with respect to a Borrower's assumption of a Mortgage when the assumption is being used, in whole or in part, to acquire title to the Mortgaged Premises. The addition of a person as a Borrower to the Mortgage does not need to comply with the Revised General QM Rule when that person already holds title to the Mortgage Premises and is seeking to take on existing debt secured by that property.

Future Guide impact: [Chapter 4202](#)

ADDITIONAL INFORMATION

At this time, Freddie Mac continues to work with the FHFA and Fannie Mae in assessing other impacts the PSPA and Revised General QM Rule may have on our requirements, guidance and/or operational processes. Additional updates related to the ATR/QM Rule may be provided in future Bulletins, as needed.

Guide updates

We will be updating the Guide at a future date to reflect the requirements referenced above, as applicable. The new requirements imposed by the Bulletin will be part of a new section in [Chapter 4202, Responsible Lending](#).

System updates

Loan Selling Advisor, Loan Closing Advisor® and UCD updates related to requirements covered in this Bulletin will be announced in the near future.

Links to external publications/resources

[Bulletin 2021-13](#)

CONCLUSION

If you have any questions about the changes announced in this Bulletin, please contact your Freddie Mac representative or call the Customer Support Contact Center at 800-FREDDIE.

Sincerely,

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