Independent Bankers Association of Texas

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Compliance Overview

ATR & QM Requirements

Small Creditor Portfolio Qualified Mortgage (See Note #1)

Civil Liability Risk:

Conclusive Safe Harbor for Non-HPML Loans; Rebuttable Presumption of Compliance Safe Harbor for HPML Loans.

Small Creditor Portfolio Qualified Requirements:	
Loan Points & Fees do not exceed Regulatory Threshold	Y - See Note #2
Equal Monthly Payments	Y
30 Year Maximum Loan Amortization	Y
5 Year Minimum Loan Amortization	N

Small Creditor Portfolio Qualified Prohibitions:	
Balloon Payment Prohibition	Y
Interest Rate Increase Prohibition	N
Negative Amortization Prohibition	Y
Deferred Principal Payment Prohibition	Y
Post Consummation Transfer Requirement	Y - See Note #3

Small Creditor Portfolio Qualified Minimum Underwriting Criteria:	
Appendix Q Standards	N
Current or reasonably expected income or assets (other than the value of the property that secures the loan) that the consumer will rely on to repay the loan	Y
Current employment status (if you rely on employment income when assessing the consumer's ability to repay)	N
Monthly mortgage payment for this loan. You calculate this using the introductory or fully-indexed rate, whichever is higher, and monthly, fully-amortizing payments that are substantially equal.	Y
Monthly payment on any simultaneous loans secured by the same property	Y

Monthly payments for property taxes and insurance that you require the consumer to buy, and certain other costs related to the property such as homeowners' association fees or ground rent	Y
Debts, Alimony, and child-support obligations	Y
Monthly debt-to-income ratio or residual income, that you calculate using the total of all of the mortgage and non-mortgage obligations listed above, as a ratio of gross monthly income	Y
Credit history	N

Small Creditor Portfolio Qualified Underwriting Verification:

3rd Party Documentation

Notes:

#1 A "Small Creditor" has assets of less than $2 billion and in conjunction with any affiliates made no more than 2000 first lien covered loans in the previous calendar year.

#2 The points and fees limits that a loan must not exceed to satisfy the requirements for a QM and related loan amount limits are:

- For a loan amount greater than or equal to $101,749, points and fees may not exceed 3 percent of the total loan amount
- For a loan amount greater than or equal to $61,050, but less than $101,749, points and fees may not exceed $3,052
- For a loan amount greater than or equal to $20,350 but less than $61,050, points and fees may not exceed 5 percent of the total loan amount
- For a loan amount greater than or equal to $12,719 but less than $20,350, points and fees may not exceed $1,017
- For a loan amount less than $12,719 points and fees may not exceed 8 percent of the total loan amount

#3 Small Creditor QMs generally lose their QM status if you sell or otherwise transfer them less than three years after consummation. However, a Small Creditor QM keeps its QM status if it meets one of these criteria:

a) It is sold more than three years after consummation;
b) It is sold to another creditor that meets the criteria regarding number of originations and asset size, at any time;
c) It is sold pursuant to a supervisory action or agreement, at any time; or
d) It is transferred as part of a merger or acquisition of or by the creditor, at any time.

S.2155 Exemption

QM Status for In-Portfolio Mortgage Loans. Banks that are $10B or less in total assets can avoid the cumbersome requirements of the "qualified mortgage" rules and Appendix Q for loans that are originated and kept in portfolio. To qualify for this automatic QM status, the loan should comply with the prepayment penalty and points and fees limitations. There can be no negative amortization or interest only loans. However, balloon notes should qualify. Although Appendix Q need not be complied with, the bank must "consider and verify" debt, income, and financial resources. Multiple methods of documentation of these findings may be used.

Generally, such loans must be retained in portfolio. Exceptions include:

- Failure of the bank
- Transfer to another covered institution (bank with $10B in assets or less) so long as it holds the loan in portfolio
- Transfer pursuant to merger/acquisition
- Transfer to wholly-owned sub of the bank if the loan is still considered to be an asset of the bank for accounting purposes.

S.2155 - Economic Growth, Regulatory Relief, and Consumer Protection Act