



MORTGAGE BANKERS ASSOCIATION

## Summary of CFPB's General QM Final Rule

December 10, 2020

On December 10, 2020, the Consumer Financial Protection Bureau (Bureau) released its General QM final rule, which amends the General QM definition by eliminating the 43 percent DTI limit and replacing it with an eligibility framework based on loan price.

### Features of the General QM Definition Final Rule

QM Qualification by APR-APOR Spread: The final rule eliminates the 43 percent DTI requirement and Appendix Q. Instead, a loan will qualify for QM treatment based on the loan's APR spread against APOR for a similar transaction at the time the rate is set. Specifically:

- First-lien loans greater than or equal to \$110,260 qualify for QM treatment if their APR does not exceed APOR by 2.25 or more percentage points.
- First-lien loans greater than or equal to \$66,156 but less than \$110,260 qualify for QM treatment if their APR does not exceed APOR by 3.5 or more percentage points.
- First-lien loans less than \$66,156 qualify for QM treatment if their APR does not exceed APOR by 6.5 or more percentage points.
- Subordinate-lien loans greater than or equal to \$66,156 qualify for QM treatment if their APR does not exceed APOR by 3.5 or more percentage points.
- Subordinate-lien loans less than \$66,156 qualify for QM if their APR does not exceed APOR by 6.5 or more percentage points.

Safe Harbor and Rebuttable Presumption: The final rule provides that a loan will receive a conclusive presumption of the borrower's ability to repay (*i.e.*, safe harbor QM) if the loan's APR does not exceed APOR for a comparable transaction by 1.5 percentage points or more as of the date the interest rate is set. The threshold is placed at 3.5 percentage points or more for subordinate-lien transactions. Loans priced greater than or equal to 1.5 percentage points but less than 2.25 percentage points above APOR receive a rebuttable presumption of the consumer's ability to repay (*i.e.*, rebuttable presumption QM). Loans priced 2.25 percentage points above APOR will be non-QM loans.

Underwriting Requirements: The final rule provides that the creditor must consider the consumer's DTI ratio or residual income, income or assets other than the value of the dwelling, and debts. While the "consider" requirement reflected in the proposed rule included a problematic reference to the ability to repay language in § 1026.43(c)(7), arguably adding a good faith and reasonableness standard to the creditor's requirement to consider DTI or residual income, this section has been revised in the final rule. Comment 43(e)(2)(v)(A)-1 explains that to meet the General QM's "consider" requirement, "a creditor must maintain written policies and procedures for how it takes into account income, debt, and DTI or residual income and document how it took into account these factors." In this way, the creditor's consideration is not open to challenge based on its reasonableness or good faith.

As with the current rule, the creditor must also verify the information used in satisfying the consideration requirement. While the final rule does not mandate the use of a specific verification standard, it creates a safe harbor for creditors that comply with the verification standards found in certain specified manuals, including the "Fannie Mae Single Family Selling Guide, the Freddie Mac Single-Family Seller/Servicer Guide, FHA's Single Family Housing Policy Handbook, the VA's Lenders Handbook, and USDA's Field Office Handbook for the Direct Single Family Housing Program and Handbook for the Single Family Guaranteed Loan Program."

Effective Date: The General QM final rule is effective 60 days after the date of publication in the Federal Register. The mandatory compliance date is July 1, 2021. During the period between the effective date and mandatory compliance date, creditors will have the option to use either the current General QM definition or the new, price-based General QM definition.