

## Revised Qualified Mortgage (QM) Rule FAQ

### Reminder: Determination of regulatory compliance

PennyMac will **not** make the determination of whether a loan complies with or is exempt from the Truth in Lending Act, Ability to Repay requirements, Revised General QM Rule, or whether a lender's designation of the status of a loan under the Revised QM Rule is correct. Please note that these determinations of compliance with the Revised QM Rule and other applicable laws are the lender's responsibility. For more information, please see [PCG Ability to Repay and Qualified Mortgage Rule](#).

## General

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### Q1: What is the Revised General QM Rule?

The Ability-to-Repay/Qualified Mortgage Rule (ATR/QM Rule) is a rule specified by TILA/Regulation Z, and recently revised by the Consumer Financial Protection Bureau (CFPB).

The ATR/QM Rule requires a lender to make a reasonable, good faith determination of the borrower's ability to repay the mortgage and defines several categories of Qualified Mortgages (QMs). Loans that meet the definition of a Qualified Mortgage are considered to have met the Ability-to-Repay requirements and enjoy certain protections from liability.

One category of QM is the General QM category. The original definition of General QM required that DTI must not exceed 43% and Appendix Q must be used to verify debts/income to be considered QM, among various other criteria.

In December 2020, the CFPB issued a revision to the General QM Rule, removing the DTI limit and Appendix Q and replacing it with limits on the loan's pricing. Under the amended rule, a loan will meet the General QM definition if the annual percentage rate (APR) exceeds the average prime offer rate (APOR) for a comparable transaction by less than 2.25% (or up to 6.5% depending on the loan amount and transaction type) at the time the interest rate is set.

### Q2: What is the "GSE Patch" and what is happening to it?

Another QM category is the Temporary GSE QM category, otherwise known as the "GSE Patch". This definition of QM allowed loans that were purchased or guaranteed by the GSEs to be considered QM loans, even if it exceeded the DTI limit of 43%. This category of QM was intended to be temporary and was originally set to expire on January 10, 2021.

In October 2020, the CFPB extended the expiration date of the GSE Patch. The GSE Patch will now expire upon the earlier of October 1, 2022 (mandatory compliance date of Revised General QM) or when the GSEs exit Federal conservatorship.

### Q3. What is the difference in safe harbor and rebuttable presumption APR-APOR thresholds?

There are 2 presumptions of compliance: "Safe Harbor" (or Conclusive) and Rebuttable. The Revised General QM Rule preserves the threshold that separates safe harbor versus rebuttable presumption QMs. Under this threshold, a loan is considered safe harbor if the APR exceeds APOR for a comparable transaction by less than 1.5% (3.5% for subordinate-lien transactions) at the time the interest rate is set.

However, the Revised General QM Rule has an additional requirement for loans where the interest rate may change within the first 5 years from the first payment date (e.g. 5/6 ARMs). For these loans, the APR for purposes of calculating the APR-APOR threshold is the maximum interest rate that may apply within the first 5 years after the date on which the first regular periodic payment is due.

#### **Q4. Will PennyMac determine if a loan is TILA Exempt or ATR Exempt Mortgages at the time of purchase?**

No, the lender must determine whether the loan is classified as TILA Exempt or ATR Exempt. PennyMac cannot provide regulatory interpretations or advice.

#### **Q5. The CFPB extended the mandatory effective date for compliance with the Revised QM Rule until October 2022. Why are Fannie Mae and Freddie Mac not extending the purchase/securitization deadline for loans originated in accordance with the GSE Patch as a result?**

While the CFPB has extended the mandatory compliance date for the Revised QM Rule, there are separate requirements imposed upon the GSEs under the Amended Preferred Stock Purchase Agreement (PSPA) (Section 5.14) between 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 QM Rule (with limited exceptions). Compliance with this provision is required by July 1, 2021. The extension of the mandatory compliance date by the CFPB for the Revised QM Rule does not change the GSEs' July 1, 2021 compliance date under the PSPA.

#### **Q6. What are the delivery and/or purchase dates for loans that meet the old General QM Rule, but not the Revised General QM Rule?**

Loans that are only eligible under the GSE Patch (and would not also be compliant with the Revised QM Rule) must be delivered to PennyMac on or before August 1, 2021 and purchased on or before August 15, 2021. They must also have an application date on or before June 30, 2021. There are no exceptions to this rule, including for single-close construction-to-permanent loans.

## **Credit**

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#### **Q7. Will PennyMac continue to purchase Higher Priced Covered Transactions (HPCTs) that are subject to the rebuttable presumption criteria in the ATR Rule?**

Yes, we will continue to purchase HPCTs.

#### **Q8. Are business purpose loans still exempt from the ATR/QM Rule?**

Yes. Business purpose loans are exempt from ATR/QM. However, such loans must still meet agency eligibility requirements and are subject to the applicable points and fees threshold.

Note that not all investment properties are considered business purpose loans - if the borrower occupies the property for > 14 days in any year or if there's evidence that the borrower acquired the property for personal reasons, the investment property is not considered for business purposes.

PennyMac assumes that investment properties are not for business purposes. If the loan does not meet QM rules at the time of delivery, PennyMac will issue a stipulation for a written statement confirming that the property meets business purpose requirements.

## Technology

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### **Q9. Can lenders rely on the Desktop Underwriter (DU) or Loan Product Advisor (LPA) messaging to determine that loans are compliant with the Revised QM Rule and eligible for delivery to PennyMac?**

No. DU/LPA will not determine whether a loan is in compliance with or exempt from the Revised General QM Rule. DU/LPA will also not determine whether a lender's designation of the loan under the Revised General QM Rule is correct. The final determination of whether a loan is compliant with the Revised General QM Rule is the lender's responsibility.

### **Q10. Will Fannie Mae and Freddie Mac update its systems to reflect changes in the QM definition?**

Fannie Mae and Freddie Mac's systems test loans against purchase requirements. It does not enforce compliance with industry regulations and applicable law. Instead, Fannie Mae and Freddie Mac rely on the lenders' representations and warranties with regard to compliance with applicable law as outlined in the Selling Guides. Lenders should check with their legal counsel on how to comply with the Revised QM Rule.

Fannie Mae and Freddie Mac are working to utilize the UCD and ULDD datasets to perform automated checks of the APR-APOR thresholds and points and fees at time of delivery/purchase. The automated check for APR-APOR spread is expected to be implemented prior to September 1, 2021 and automated check for points and fees will follow.

### **Sources**

- [Fannie Mae | Loan Eligibility Under the Preferred Stock Purchase Agreement and Revised General Qualified Mortgage Rule](#)
- [Freddie Mac | Qualified Mortgages \(QM\) FAQ](#)
- [CFPB | Executive Summary of the December 2020 Amendments to the ATR/QM Rule](#)
- [CFPB | Qualified Mortgage Definition under the Truth in Lending Act \(Regulation Z\): General QM Loan Definition; Delay of Mandatory Comp](#)
- [FDIC | Ability to Repay & Qualified Mortgages](#)
- [CFPB Finalizes Ability to Repay/Qualified Mortgage Rules](#)



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