

# Qualified Mortgage (QM)

*Presented by*

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# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- Term first used within the text of the Dodd-Frank Act
- Defined by the CFPB
- Designed to create safer loans by prohibiting high-risk features
- Lenders who make QM loans receive some degree of legal protection against borrowers lawsuits.

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- No Excessive Upfront Points and Fees
- No Toxic Loan Features
- Limits on Debt-to-Income Ratios

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- No Excessive Upfront Points and Fees
  - The points and fees paid by the consumer must not exceed 3% of the total amount borrowed.
  - Exceptions are made for bona fide discount points on prime loans.
  - The QM Rule puts a limit on those charges used to compensate mortgage brokers or loan originators/officers.

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- No Toxic Loan Features
  - No interest only loans- mortgage products in which the borrower defers the repayment of principal for a period of time
  - No negative amortization- Mortgage products where the principal amount borrowed increases over time

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- No Toxic Loan Features
  - No terms beyond 30 years- the mortgage product must have a repayment term of 30 years or less
  - No balloon loans- Mortgage products where the final payment amount includes a larger than normal payment (unamortized principal)

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

- Limits on Debt-to-Income Ratios
  - The qualified mortgage will be granted to borrowers with debt-to-income ratios no higher than 43%.
  - This aspect of the QM rule is intended to prevent consumers from taking on mortgage loans they realistically cannot afford

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

Lenders that generate QM compliant mortgages receive some degree of legal protection against borrower law suits.

- Safe Harbor- lower priced loans with interest rates closer to the prime rate. The lender is considered to have legally satisfied the Ability-to –Repay Rule
- Rebuttable Presumption- higher priced loans typically interest rates 1.5% higher than the current average prime offer rate (APOR) published by Freddie Mac



# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

### GSE-eligible category of QMs

- Any loan that meets the product feature requirement and is eligible for purchase, guarantee, or insurance by a GSE, FHA, VA or USDA is a QM loan regardless of the debt-to-income ratio
- Applies as long as GSEs are in FHFA conservatorship or January 10, 2021, whichever comes first

# Qualified Mortgage (QM)

## The Qualified Mortgage Rule

### Small Credit Category

- If you have less than \$2B in assets and originate 500 or fewer first mortgages per year, loans made and held in portfolio are QMs as long as the lender has considered and verified a borrower's debt-to-income ratio. (No specific DTI limits applies)

# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***The stability of an applicant's income is examined in three different ways***

- Employment History
- Returning to work after and Extended Absence
- Consumers' Employment History

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***The lender must verify employment history for the most recent two year cycle and:***

- Explain gaps in employment for one or more months
- Determine whether the applicant was a student or in the military within the two years , and provide evidence of such a claim

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***When analyzing the probability of continued stable employment the lender should:***

- Review past employment record
- Confirm probability of continued employment
- Consumers must be employed in the current job for at least six months
- Document a two year work history

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Overtime and Bonus Income can be used to qualify if:***

- This income has been received for the past 2 years
- If this income is verified to be likely to continue
- An average is calculated over a 2 year period should the income vary significantly (Continuing trends downward would use the lesser)

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Seasonal and/or Part Time Income can be used to qualify if:***

- The consumer has worked the same job for the past 2 years
- Expects to be re-hired the next season

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Commissioned Income can be used to qualify if the consumer can provide:***

- Signed federal tax returns for the last 2 years
- The most recent pay stub

***Commissioned Income for 1 year but less than 2 years:***

- Document likelihood it will continue
- Document reasons for accepting commission income



# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Employers' Subsidies:***

- Housing Subsidy is considered gross income and does not offset the mortgage payment
- Only amount which exceeds actual expenditures can be used as income for Automobile Allowance
- Unreimbursed business expenses must be *subtracted* from gross income

## Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Retirement Income:***

- Must be verified from the employer or Federal Tax Returns and must continue for at least 3 years from loan consummation
- SSI Income must be verified with current complete copy of Awards Letter. If not retirement income, documentation of continuance for 3 years needed  
(Some SSI Income may be *Grossed Up*)

# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Self Employment Income:***

- A consumer with a 25% or greater ownership interest in a business is considered *Self Employed*
- 4 Types of business structures:
  - Sole Proprietor
  - Corporation
  - Limited Liability or “S” Corporation
  - Partnership

# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Self Employment Income:***

- A consumer must have a work history for at least two years
- The lender must establish the consumer's earning trends
- Up to date Profit & Loss may be included as long as it is consistent with past trend
- Downward trends use current information

# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Non-Employment Related Consumer Income:***

- Payments need to be documented that they will be received at least for the first 3 years after loan consummation
- Require written documentation
- Lender must obtain evidence of payment during the last 12 months

# Regulation Z: Appendix Q

Income may not be used to calculate the consumers' income from any source that cannot be verified, is not stable, or will not continue. ***Non-Employment Related Consumer Income:***

- Alimony, Child Support, Separate Maintenance
- Investment and Trust Income
- Notes Receivable Income
- Investment Property Income
- Military, Government Assistance Income

# Regulation Z: Appendix Q

## Alimony, Child Support or Separate Maintenance

- Consumer will provide required documentation
  - Final Divorce Decree
  - Legal Separation Agreement
  - Court Order
  - Voluntary Payment Agreement
- Consumer will provide evidence of payment
  - Cancelled Checks or Deposit Slips
  - Tax Returns
  - Court Records

# Regulation Z: Appendix Q

## Interest and Dividend Income

- Consumer will provide required documentation
  - Federal Tax Returns
  - Account Statement supporting 2 year history

## Income from Trusts

- Consumer will provide required documentation
  - Copy of the Trust or Other Trustee Statement
    - Confirming amount of Trust;
    - Frequency of distribution;
    - Duration of the payments



# Regulation Z: Appendix Q

## Notes Receivable Income

- Consumer will provide required documentation
  - Copy of the Note to verify amount and length of payment
  - Evidence supporting 2 year history of receipt

## Military Income (non-base pay)

- Housing & Clothing Allowance
- Flight or Hazard Pay
- Rations
- Proficiency Pay

# Regulation Z: Appendix Q

## Government Assistance Programs

- Government Agency must will provide required documentation that income will continue for 3 years

## Unemployment Income

- Documentation for at least 2 years and assurance that it will continue

## Mortgage Credit Certificates

- Gov't entity subsidizes as payment or tax rebate
- May be added to gross income **or** offset payment before calculating ratios

# Regulation Z: Appendix Q

## Homeownership Subsidies

- Housing Choice Voucher
- Subject to Congressional appropriation but for underwriting purposes will be assumed to continue
  - If consumer receives subsidy directly it is considered as income which may **be grossed up by 25%**
  - Subsidy may **offset payment** if assistance payment is paid directly to servicer or in account accessed solely by servicer

# Regulation Z: Appendix Q

## Rental Income

- Rent received for properties owned is acceptable as long as the lender can document the stability by:
  - Current Lease
  - An Agreement to Lease
  - A Rental History for 24 months with no gaps greater than 3 months

# Regulation Z: Appendix Q

## Rental Income

- Projected Rent for tenant occupied units may only be considered gross income after deducting vacancy and maintenance factors
  - Cannot be used as a direct offset to the mortgage payment
- Income from roommates is not acceptable but income from boarders is if:
  - They are related by blood, marriage or law
  - Income shown on consumers' tax returns

# Regulation Z: Appendix Q

## Non-Employment Consumer Related Income

- Certain type income may not be subject to Federal Tax
- The amount of tax savings may be added to the consumer's gross income
- The percentage used cannot exceed the appropriate tax rate
- The lender should document and use the consumer's tax rate from the previous year. If the consumer did not file, the rate should be 25%

# Regulation Z: Appendix Q

## Non-Employment Consumer Related Income

- Certain type income may not be subject to Federal Tax
  - Some portion of Social Security, State or Federal Employee Retirement
  - Railroad Retirement Benefits
  - Disability and public assistance programs
  - Child Support
  - Military Allowances

# Regulation Z: Appendix Q

## Projected Income

- Projected or Hypothetical Income is generally not acceptable income, however exceptions are permitted
  - Cost of Living adjustments
  - Performance Raises
  - Bonuses
- For these exceptions to apply, the lender must:
  - Have information verified in writing by employer
  - Income must be scheduled to begin within 60 days of loan consummation



# Regulation Z: Appendix Q

## Projected Income

- Projected Income is generally acceptable income for a consumer to start a new job if the lender:
  - Receives a copy of the guaranteed, non-revocable contract for employment
  - Determines that the income is scheduled to begin within 60 days of loan consummation
  - Receives evidence that the income has been received after the sixty day period

# Regulation Z: Appendix Q

## Consumer Liabilities

- Recurring obligations include:
  - All installment loans
  - Revolving Charge Accounts
  - Real Estate Loans
  - Alimony
  - Child Support
  - Other continuing obligations

# Regulation Z: Appendix Q

## Consumer Liabilities

- The lender must include the following when computing the debt to income ratios for recurring obligations:
  - Monthly Housing Expenses and
  - Additional recurring charges extending ten months or more, such as:
    - Payments on installment & revolving accounts
    - Child Support or Separate Maintenance
    - Alimony

# Regulation Z: Appendix Q

## Consumer Liabilities

- If the credit report shows a revolving account with an outstanding balance but no specific minimum payment, the payment must be calculated as the greater of:
  - 5% of the showing balance or
  - \$10.00
- If the consumer can present a current statement confirming the minimum payment, that amount will be used

# Regulation Z: Appendix Q

## Consumer Liabilities

- Alimony Payments
  - The lender may choose to treat the monthly alimony obligation as a reduction from the consumer's gross income when calculating qualifying ratios rather than treating it as a monthly obligation

# Regulation Z: Appendix Q

## Consumer Liabilities

- Contingent Liability Payments
  - Must be considered when the consumer remains obligated unless:
    - The consumer can document the loan has been paid agreeably by co-borrower over the past 12 months

# Regulation Z: Appendix Q

## Consumer Liabilities

- Projected Obligations
  - Debt payments scheduled to begin or come due within 12 months must be included as anticipated monthly obligations
  - Debt payments do not have to be classified as projected obligations if the consumer provides written evidence that the debt will be deferred to a period outside the 12 month timeframe
  - Notes payable that come due within one year of loan consummation must be considered

# Questions

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