

CFPB Updates Regulation Z Thresholds for 2021

July 22, 2020

The Consumer Financial Protection Bureau (“CFPB”) has updated the inflation-adjusted loan amounts applicable to the points and fees calculations under the CFPB’s Ability-to-Repay/Qualified Mortgage rule (“ATR/QM Rule”) and High-Cost Mortgage Rule. These updated amounts are effective January 1, 2021.

In January 2013, the CFPB issued a final rule pursuant to the Dodd-Frank Act requiring mortgage lenders to consider a consumer’s ability to repay a home mortgage loan before making the loan. The ATR/QM Rule established the points and fees limits that a loan cannot exceed in order to satisfy the requirements for a qualified mortgage. Under current limits, a covered transaction is not a qualified mortgage unless the transaction’s points and fees do not exceed 3 percent of the total loan amount for a loan amount greater than or equal to \$109,898; \$3,297 for a loan amount greater than or equal to \$65,939 but less than \$109,898; 5 percent of the total loan amount for loans greater than or equal to \$21,980 but less than \$65,939; \$1,099 for a loan amount greater than or equal to \$13,737 but less than \$21,980; and 8 percent of the total loan amount for loans less than \$13,737.

Under the 2013 Dodd-Frank mortgage amendments, the CFPB also issued the High-Cost Mortgage Rule which sets forth restrictions and consumer protections for high-cost mortgages. Currently, a transaction is determined to be a high-cost mortgage if its points and fees exceed 5 percent of the total loan amount for a loan amount greater than or equal to \$21,980; and 8 percent of the total loan amount or \$1,099 (whichever is less) for a loan amount less than \$21,980.

Both the ATR/QM Rule and High-Cost Mortgage Rule require that these amounts be recalculated annually for inflation, and the CFPB has released the new amounts for 2021. The CFPB uses the “Consumer Price Index for All Urban Consumers” as published by the U.S. Bureau of Labor Statistics when adjusting the figures. Based on this index, the applicable loan threshold amounts for 2021 reflect a 0.3 percent increase.

Effective January 1, 2021, a covered transaction is not a qualified mortgage unless the transaction’s total points and fees do not exceed:

- 3 percent of the total loan amount for a loan amount greater than or equal to \$110,260;
- \$3,308 for a loan amount greater than or equal to \$66,156 but less than \$110,260;
- 5 percent of the total loan amount for loans greater than or equal to \$22,052 but less than \$66,156;
- \$1,103 for a loan amount greater than or equal to \$13,783 but less than \$22,052; and
- 8 percent of the total loan amount for loans less than \$13,783.

Also, effective January 1, 2021, a transaction is determined to be a high-cost mortgage if its points and fees exceed the following thresholds:

- 5 percent of the total loan amount for a loan amount greater than or equal to \$22,052; and
- 8 percent of the total loan amount or \$1,103 (whichever is less) for a loan amount less than \$22,052.

If you have any questions regarding the updated thresholds for 2021 or the Dodd-Frank mortgage amendments in general, please feel free to contact Joseph D. Simon at (516) 357-3710 or via email at jsimon@cullenllp.com, Kevin Patterson at (516) 296-9196 or via email at kpatterson@cullenllp.com, Elizabeth A. Murphy at (516) 296-9154 or via email at emurphy@cullenllp.com, or Mandy Xu at (516) 357-3850 or via email at mxu@cullenllp.com.

Please note that this is a general overview of the issues addressed and does not constitute legal advice.

Practices

- Regulatory and Compliance

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