

Comparison of Section 35(HPML) & Section 43(HPCT) Regulations

As of 01/07/2014-VS

	HPML (12 CFR §1026.35) Higher-Priced Mortgage Loans	HPCT (12 CFR § 1026.43) High-Priced Covered Transaction As of January 10, 2014
General	A closed-end consumer credit transaction secured by the consumer’s principal dwelling with annual percentage rate (APR) that exceeds the APOR by indicated thresholds for a comparable transaction as of the date the interest rate is set.	This section applies to any consumer credit transaction that is secured by a dwelling, as defined in § 1026.2(a)(19), including any real property attached to a dwelling. Higher-Priced Covered Transaction means a covered transaction with an annual percentage rate that exceeds the average prime offer rate by indicated thresholds for a comparable transaction as of the date the interest rate is set.
Consumer Loan Type	Principal dwelling only -1st and 2nd liens fixed rate or adjustable rate mortgages including: “ ANY Closed-End Consumer Credit Transaction secured by a principal dwelling ” <ul style="list-style-type: none"> • Closed-end purchase money loan • Refinancing of closed-end purchase money or home equity loan • Closed-end home equity loan 	-1st and 2nd liens-Any consumer purpose. <ul style="list-style-type: none"> • <u>Principle</u> residence; • <u>Secondary</u> residence; or • <u>Vacation</u> residence fixed rate or adjustable rate mortgages including: <ul style="list-style-type: none"> • Purchase Money Loans • Refinancing of closed-end Purchase Money or home equity loan • Closed-end Home Equity Loan • Actual “Bridge Loans” to obtain principal dwelling (if exceeding 12 months) • Home Improvement(interest or P&I) • Temporary(if exceeding 12 months) • Construction phase (if exceeding 12 months); or permanent phase.
Not Applicable	HPML definitions does not include; <ul style="list-style-type: none"> • Initial Construction Loans (Borrower Interim) • Temporary or Bridge loans with terms of 12 months or less* • Home Equity Lines of Credit (open-end) • Reverse mortgages • Non-owner occupied transactions 	HPCT definitions will not include; <ul style="list-style-type: none"> • Home Equity Line of Credit subject to §1026.40 (open-end); • Mortgage transactions secured by a Timeshare • Reverse mortgages subject to § 1026.33; • Investment properties; or • Vacant Land; • Actual “Bridge Loans” to obtain principal dwelling (less than 12 months) • Temporary(less than 12 months) • Construction phase (less than 12 months).

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Thresholds	<p>Thresholds based on average prime offer rate (APOR) as published via the FFIEC’s rate spread calculator on website www.ffiec.gov/ratespread/newcalc.aspx : Final APR that exceed the APOR as of the final interest rate lock by at least</p> <ul style="list-style-type: none"> • 1.5 percentage points or more for first-lien loans; or • 2.5 or more percentage points for loans which exceed Agency maximum loan limits (jumbo) • 3.5 percentage points or more for subordinate-lien loans. 	<p>Thresholds based on average prime offer rate (APOR) as published via the FFIEC’s rate spread calculator on website www.ffiec.gov/ratespread/newcalc.aspx Final APR that exceed the APOR as of the final interest rate lock by at least</p> <ul style="list-style-type: none"> • 1.5 or more percentage points for a first-lien covered transaction under General QM (e)(2) or Temporary GSE QM (e)(4); or • 3.5 or more percentage points for a first-lien covered transaction that is a qualified mortgage under paragraph Small Creditor(e)(5), Small Creditor Balloon(e)(6), or Balloon(f) of this section; or by • 3.5 or more percentage points for a subordinate-lien covered transaction. <p>NOTE:</p> <ul style="list-style-type: none"> • The increased threshold 3.5 percentage points as of January 10, 2014 for “Small Creditors” sunsets on January 10, 2016 per §1026.43. (See Sec 43)
Ruling	<p>Loans which exceed thresholds tolerances are;</p> <ul style="list-style-type: none"> • Subject to all requirements of Section 35 (below). 	<p>Qualified Mortgage loans which exceed threshold for HPCT tolerances are;</p> <ul style="list-style-type: none"> • removed from “safe harbor” protection, and hold only “rebuttable presumption of compliance”; and • If a balloon QM, balloon must be included in Ability-to-Repay evaluation.

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Underwriting	<p>May not rely on the collateral securing the loan without regard to consumer’s ability to repay. Lender may consider current and reasonably expected income, employment, assets other than collateral, current obligations and mortgage-related obligations.</p> <p>Mortgage related obligations include; but are not limited to, property taxes, insurance premiums including PMI, HOA or condo fees, secondary mortgage payments taken at or before closing in addition to this transaction’s mortgage payment.</p>	<Same as HPML
Disclosure	No separate additional disclosures required; other than as required by Reg. B 1002.14(a)(2)- Borrowers Right to Receive Appraisal -A creditor shall mail or deliver a copy of the appraisal report promptly (generally within 30 days) after the creditor receives an applicant's request.	No separate additional disclosures required;
Prohibition	<p>May not fail to escrow for property taxes and mortgage-related insurance for a minimum of FIVE YEARS (including insurance against loss of or damage to property, protecting mortgage lender against default or other credit loss, and flood insurance) when the high priced mortgage loan is secured by a <u>first lien</u>.</p> <p>Escrows requirements effective:</p> <ul style="list-style-type: none"> • June 1, 2013 <p>Exemptions to Escrow Rule Requirement:</p> <ul style="list-style-type: none"> • Loans originated by creditor or affiliates whom meets “Rural or Underserved” definitions. <p><u>However, they are still considered HPML loans and must follow all other HPML rules and requirements, if threshold is exceeded.</u></p> <p>Notwithstanding the 5 year mark and borrower’s hand written request to cancel, escrow accounts <u>may not</u> be canceled unless the unpaid principal balance is less than 80% of original value of the property securing underlying debt obligation; and the consumer is not delinquent or in default.</p>	<If also HPML must follow escrow requirements.

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Prohibition	May not structure a home-secured loan as an open-end plan to evade Regulation Z's HPML provisions.	May not structure a home-secured loan as an open-end plan to evade Section 43
Prohibitions	<p>** 1026.35(e) May not impose a prepayment penalty at any time if any of the following is true:</p> <ul style="list-style-type: none"> • Other applicable law prohibits such penalty; • The penalty will apply after the two year period following consummation. • The consumer's principal and/or interest mortgage payment can change during the first 4 years of the loan term (i.e., adjustable rate mortgage with first change during first 4 years); or • The source of the prepayment funds is a refinancing by the same mortgage lender or an affiliate. • <p>** Will sunset for applications up to January 9, 2014. Prepayment penalty restrictions have been restructured in §1026.43, and in newly established Ability to Repay (ATR) requirements.</p> <p>Specified restrictions that HPML loans must follow effective January 10, 2014;</p> <p>May not impose a prepayment penalty at any time which exceeds the following parameters:</p> <ul style="list-style-type: none"> • More than 36 months after consummation or account opening; or • In an amount more than 2% of the amount prepaid. 	<p>Specified restrictions that HPCT loans must follow effective January 10, 2014;</p> <p>May not impose a prepayment penalty at any time which exceeds the following parameters:</p> <ul style="list-style-type: none"> • More than 36 months after consummation or account opening; or • In an amount more than 2% of the amount prepaid.

<p>Prohibitions</p>	<p>Effective January 18, 2014: Appraisal Requirements</p> <p>Exemptions;</p> <ul style="list-style-type: none"> • A QM as defined in 1026.43(e); • Transaction secured by a new manufactured home (chattel); • A transaction secured by a mobile home, boat or trailer, without land; • A transaction for the initial construction of a dwelling ; • Certain “streamlined” refinances; • A bridge loan of 12 months or less; • A reverse-mortgage transaction; or • A transaction of \$25,000 or less. <p>A full appraisal must be obtained on any loan meeting HPML requirements; including a physical inspection of the interior of the property.</p> <p>The creditor shall not extend an HPML without obtaining an additional appraisal at no cost to the borrower if;</p> <ul style="list-style-type: none"> • The seller obtained the property 90 days or less prior to the date of purchase agreement, and the sales price exceeds seller’s acquisition cost by 10% • The seller obtained the property 90-180 days prior to the date of purchase agreement, and the sales price exceeds seller’s acquisition cost by 20% <p>Exceptions to additional appraisal requirement include ones where the seller is;</p> <ul style="list-style-type: none"> • A local, State or Federal government agency; • A person who acquired title through foreclosure,, deed-in-lieu • A non-profit entity as part of a local, State or Federal program. • A person whom acquired title by inheritance or court order. • An employer or relocation agency in connection with relocation of employee; • A service member who received a deployment; or permanent change of station; or property is located in • A federal disaster area as designated by the President; or • Located in a rural county as defined in 1026.35(b)(2)(iv)(A) 	<p>>If also an HPML must follow same requirements.</p>
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