

Comparison of Section 35(HPML) & Section 32(HOEPA) Regulations Including CFPB 2013 - 2016 Updates

| | HPML (12 CFR §1026.35) Higher-Priced Mortgage Loans | HOEPA (12 CFR § 1026.32) High-Cost Mortgage Loans |
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| 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. | 2013 CFPB TILA amendments apply to Borrowers that purchase or already own their homes and entered into loans that met or exceeded specific cost parameters. These amendments enhance existing HOEPA protections to align with the QM and ATR restrictions effective 01/10/14. |
| Consumer Loan Type | <p>Principal dwelling only -1st and subordinate liens fixed rate or adjustable rate mortgages including:</p> <p>“ANY Closed-End Consumer Credit Transaction secured by a principal dwelling”</p> <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 | <p>Principal dwelling only -1st and subordinate liens fixed rate or adjustable rate mortgages including:</p> <ul style="list-style-type: none"> • Purchase Money Loans • Refinancing of closed-end Purchase Money or home equity loan • Closed-end Home Equity Loan • Home Equity Lines of Credit (HELOC) • Actual “Bridge Loans” to obtain principal dwelling • Home Improvement(interest or P&I) • Temporary |
| Exemptions | <p>HPML definitions does not include;</p> <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 | <p>HOEPA definitions does not include;</p> <ul style="list-style-type: none"> • Initial Construction Loans(Borrower Interim) • Reverse mortgages • Originated or directly financed by Housing Financing Agency (HFA) • Originated or directly financed USDA Rural Development Section 502 Direct Loan Program • Non-owner occupied and second home purchases and refinance mortgages |
| Thresholds | No Prepayment Penalty Test | <p>Prepayment Penalty Coverage Test: Loan is high-cost if you charge a prepayment penalty;</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. |

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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>• Note:3.5 percentage points as of January 10, 2014 for “Small Creditors” pertains to Higher Priced Covered Transactions (HPCT) per §1026.43(b)(4), not Section 35(HPML)</p> | <p>Thresholds based on either APR Test or Points & Fees Test: www.ffiec.gov/ratespread/newcalc.aspx APR Test: A closing date APR that exceeds the APOR as of the date the interest rate was set</p> <ul style="list-style-type: none"> • 6.5 % points for first-lien loans or • 8.5 % points for subordinate-lien loans • 8.5 % points for first-lien loans if dwelling is personal property and less than \$50,000 <p style="text-align: center;">-OR-</p> <p>Points and Fees Test: Points and fees exceeding the greater of</p> <ul style="list-style-type: none"> • 5 % of the total loan amount if loan amount is \$20,000 or more; or • The lesser of 8% or \$1,000 for loan amounts less than \$20,000 (adjusted annually); or <p>Points and Fees include;</p> <ul style="list-style-type: none"> • All items required to be disclosed in §1026.4(a) and §1026.4(b); -Except for interest or time-price differential; and any Federal or State agency guaranty or mortgage insurance; Non-Agency MI payable after consummation; or for Non-Agency MI payable at or prior to closing, the amount in excess of FHA UFMIP; • Less excludable discount points; • All fees paid directly or indirectly to creditor, loan originator or its affiliates known at consummation; • All compensation paid by creditor to a mortgage broker • All items listed in §1026.4(c)(7), unless reasonable, and creditor or affiliate receives no direct or indirect compensation for charge; • Premiums for any credit insurance payable at or before consummation; • Maximum Prepayment Penalty that may be collected if allowable; and • Total Prepayment penalty incurred if the borrower refinances with creditor or its affiliate. <p>Open-End additionally includes</p> <ul style="list-style-type: none"> • Participation fees payable at or before account opening; • Fees charged to consumer to draw funds from the credit line. |

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| Disclosure | <p>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.</p> | <p>HOEPA disclosure must be given 3 business days prior to closing. If transaction is rescindable, give to each consumer who has the right to rescind. The following must be included in HOEPA disclosures:</p> <ul style="list-style-type: none"> • “You are not required to complete this agreement merely because you have received these disclosures or signed a loan application. If you obtain this loan the lender will have a mortgage on your home. You could lose your home and any money you have put into it if you do not meet your obligations under this loan” <p>PLUS</p> <ul style="list-style-type: none"> • APR; • Amount of the regular monthly (or other periodic) payment and the amount of any balloon payment; -Open-end ;based on borrowing full line of credit with no further extensions, borrower making minimum payments, and APR remaining constant during both draw period and any repayment period. -Examples to include; first minimum periodic for draw period, first minimum periodic for repayment, and balance outstanding at the beginning of any repayment period. -Example section must include a statement indicating that these are not the consumer’s actual payments and that actual minimum periodic payments will depend on amount borrowed, interest rate applicable to that period and whether the consumer pays more than the required minimum periodic payment • Variable rate transaction, statement that interest rate and payment may increase and the maximum rate and payment possible; • Amount borrowed ; Credit limit (note amount with notation if amount includes optional credit insurance or debt-cancellation coverage.) -Open-end amount must indicate the borrower’s total credit limit for the plan at the time the account is opened. |

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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 |
| Prohibition | <p>Specified restrictions that HPML loans must follow effective January 10, 2014; May not impose a prepayment penalty at any time if any of the following is true:</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.; and • 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. | May not impose a prepayment penalty at any time if the loan violates any of the HOEPA rules. |
| 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 |

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| Requirement | <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>Exemptions to Escrow Rule Requirement:</p> <ul style="list-style-type: none"> • Loans originated by creditor or affiliates who meets all “Rural or Underserved” definitions. Updates 1/2016 and 3/31/2016 • Creditor has extended <u>one covered transaction</u> in a Rural or Underserved area during the previous calendar year; or, during either of the two preceding calendar years, with applications received prior to April 1st; and • Creditor and affiliates have fewer than 2000 first lien covered transactions during the previous calendar year (not including portfolio loans), • Together with its affiliates, has less than \$2,000,000,000 (billion) in assets during the previous calendar year (adjusted annually per CPI). • Creditor or its affiliates do not maintain escrow accounts other than; • HPML loans extended between April 1, 2010 and May 1, 2016; or • Established after consummation to distressed consumers to assist in avoiding default or foreclosure <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> | <p>>N/A</p> |

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| Requirement | <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>>N/A</p> <p>Balloons: May <u>not</u></p> <ul style="list-style-type: none"> • impose, with limited exception, a balloon payment on loans with a term of less than 5 years; • Balloon exception for “bridge loans of 12 months or less”, or certain Rural and Underserved or Small Creditor loans designated under 1026.43 (f) and (e)(6) • impose negative amortization; • collect advance payments, i.e., the consolidation and collection of more than 2 periodic payments, paid in advance from the loan proceeds; • increase an interest rate upon default; • include, with limited exception, a due-on-demand clause; • unfairly calculate interest due to be rebated to a consumer in connection with loan acceleration resulting from default; • make, with limited exception, a direct payment of loan proceeds to a home improvement contractor, payable solely in the name of the contractor; • fail to furnish the required Regulation Z notice to an assignee of a high-cost mortgage (informs the assignee this mortgage is subject to special TILA protections and the assignee could be liable for claims and defenses the consumer could assert against the lender); <p>Refinance a high-cost mortgage made by the same lender into another high-cost mortgage to the same homeowner within 1 year of consummation unless the refinancing is in the homeowner’s interest, e.g., a lower interest rate.</p> |