LOAN PROCESSING, UNDERWRITING, DOC DRAWING, AND FUNDING PROCEDURE – HANDLING HPMLs

PNP SPECIFICATIONS

<table>
<thead>
<tr>
<th>PNP Name/History</th>
<th>Procedure: Handling HPMLs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Date Issued:</td>
<td>02/26/2016</td>
</tr>
<tr>
<td>Date Effective:</td>
<td>03/01/2016</td>
</tr>
<tr>
<td>Date Revised:</td>
<td></td>
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</tbody>
</table>

Production Channels

- Retail
- Wholesale
- Correspondent

Accountable Personnel/Department

- Loan Processing
- Underwriting
- Doc Department

Issuing Personnel/Department

- Executive Vice President, Operations

Subject Matter Expert (SME)

- Director of Loan Processing
- Director of Underwriting
- National Funding Manager
- Director of Credit Risk
- Branch Relations Manager
- Compliance Manager

Purpose

The purpose of this procedure is to define what constitutes a higher-priced mortgage loan (HPML), how to recognize a HPML, how to cure a HPML (so it is no longer considered a HPML), and how to review and approve a loan when HPML alerts and status cannot be cured.

RELATED DOCUMENTATION

Guide

Branch Loan Processing Manual

URL

APOR: https://www.ffcie.gov/ratespread/aportables.htm
Rate Spread Calculator:
https://www.ffcie.gov/ratespread/newcalc.aspx
## RELATED DEFINITIONS

### Ability to Repay (ATR)

The Consumer Financial Protection Bureau (CFPB) adopted a rule that implements ATR/QM provisions of the Dodd-Frank Act. The **ATR rule** describes the minimum standards that must be used to determine if a consumer has the ability to repay the mortgage extended, considering eight underwriting factors: 1) current or reasonably expected income or assets; 2) current employment status; 3) monthly payment on the covered transaction; 4) monthly payment on any simultaneous loan; 5) monthly payment for mortgage-related obligations; 6) current debt obligations, alimony, and child support; 7) monthly debt-to-income ratio or residual income; and 8) credit history.

### Anti-steering/Safe Harbor

The Anti-steering disclosure is used to meet safe harbor requirements. Safe harbor is met if the consumer is presented with loan offers for each type of transaction in which the consumer is interested (fixed, adjustable, etc.) and loan options include: 1) loan with lowest interest rate for which consumer qualifies; 2) loan with lowest rate for which consumer qualifies without a negative amortization, prepayment penalty, interest-only payments, balloon payment, etc.; and 3) the loan with the lowest total dollar amount for origination points or fees and discount points. To be within the safe harbor, the loan originator must obtain loan options from a significant number of creditors with which the originator regularly does business.

### Average Prime Offer Rate (APOR)

The **average prime offer rate** (APOR) is published by the Board of Governors of the Federal Reserve System at least weekly. The most recent APOR prior to a loan lock must be used when determining if a loan is a HPML.

The APOR is found on the Mavent report in Encompass (found under the **Tools** menu, **Compliance Review**) or online at [https://www.ffiec.gov/ratespread/aportables.htm](https://www.ffiec.gov/ratespread/aportables.htm). A rate spread calculator is at [https://www.ffiec.gov/ratespread/newcalc.aspx](https://www.ffiec.gov/ratespread/newcalc.aspx).

### Higher-priced Mortgage Loan (HPML)

Regulation Z defines a **higher-priced mortgage loan** (HPML) as a consumer credit transaction secured by the consumer’s principal dwelling with an annual percentage rate (APR) that exceeds the average prime offer rate (APOR) for a comparable transaction as of the date the interest rate is set (lock date) by 1.5 or more percentage points for a first lien, 3.5% or more for a subordinate lien or 2.5% or more for a jumbo loan.
RELATED DEFINITIONS (CONTINUED)

Qualified Mortgage (QM)

The general definition of a **Qualified Mortgage** (QM) is any loan that meets the product feature requirements with a debt-to-income ratio (DTI) of 43% or less. The “GSE-eligible” category of QMs is any loan that meets the product feature requirements and is eligible for purchase, guarantee or insurance by a GSE, FHA, VA or USDA (regardless of the DTI).

Rebuttable Presumption

Qualified Mortgages that are also HPMLs have a rebuttable presumption of compliance. These loans are presumed to comply with ATR provisions; however, the consumer would have the opportunity to rebut that presumption in future ATR litigation. The presumption of compliance is rebuttable by showing that at consummation, the consumer’s income, debt obligations, alimony, child support, monthly mortgage payments and mortgage-related obligations and simultaneous loans of which AFN was aware at consummation would leave the consumer with insufficient residual income or assets (other than the value of the real property) to meet living expenses (including recurring and material non-debt obligations of which AFN was aware at consummation).

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Recognizing a Potential HPML

Accountable Personnel
1. Because any loan can potentially become a HPML, it is important to recognize criteria that can cause a loan to become higher-priced. These criteria include but are not limited to:
   - Interest rate is slightly higher than the current market rate plus normal closing costs with added overages;
   - Higher interest rate with additional fees;
   - Premium priced loan (where negative discount points are not used to reduce borrower fees);
   - Loans with excessive discount points to reduce the rate;
   - Additional fees, such as delivery fees, FICO adjustments, property fee pricing adjustments, cash out fees;
   - Loans with mortgage insurance premiums for the life of the loan.

Reviewing Mavent

Accountable Personnel
2. Use the Encompass Mavent report to identify whether the loan is considered to be a HPML or at risk of being a HPML.
   - If the loan is locked, the APOR from the lock date is used to calculate HPML tolerance.
   - If the loan is not locked, the APOR from the LE Application date is used to calculate HPML tolerance.

Mavent is set to automatically run at designated milestones; however, operations staff may re-run to update/validate the results by clicking [Preview] in the upper right corner:

a. Within the loan in Encompass, go to Tools>Compliance Review.

b. Click the [Preview] button to ensure the Mavent report represents the latest data in the file.

c. If the status under the “Higher Priced” test is “Alert” (or “Fail”), scroll down on the report to see the reason(s).

(Continued)
Reviewing Mavent (Continued)

Accountable Personnel

Below is a table that shows example HPML indicators:

<table>
<thead>
<tr>
<th>Indicator Description</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>FHA Qualified Mortgage Loan (First Line (5/26/13); ATR/QM (10/08/13))</td>
<td>ALERT</td>
</tr>
<tr>
<td>California Higher-Priced Mortgage Loan (First Line (5/26/13); ATR/QM (10/08/13))</td>
<td>ALERT</td>
</tr>
<tr>
<td>FHA Qualified Mortgage Rate Threshold (Safe Harbor Qualified Mortgage (10/01/20))</td>
<td>PASS</td>
</tr>
</tbody>
</table>

For FHA loans, Mavent runs an additional “Higher-Priced Covered Transaction” test to determine if the FHA Qualified Mortgage Threshold is exceeded to determine if the loan meets FHA Safe Harbor Qualified Mortgage standards. The “Safe Harbor” indicator is located under the ATR/QM section of the Mavent report.

If an FHA file passes the Higher-Priced Covered Transaction test, it is considered a Safe Harbor Qualified Mortgage for FHA. If an HPML alert (as discussed in c. above) is present, the loan is considered HPML; however, the Safe Harbor threshold is sufficient to proceed with the loan, as the loan will not fall into the rebuttable presumption category, which would require further scrutiny.
Determining if HPML Applies

**Accountable Personnel**

3. Determine the maximum allowed APR:
   a. After the rate is locked, within the loan in Encompass, go to **Tools>Compliance Review**.
   b. Click the [Preview] button to ensure the Mavent report represents the latest data in the file.
   c. See statuses under the “**Higher Priced**” and “**ATR/QM**” sections.
   d. Scroll down to see the “**Higher-Priced Covered Transaction**” details; here is an example:

<table>
<thead>
<tr>
<th>Loan Name: ALERT</th>
<th>ATROQ</th>
<th>TILA/RESPA</th>
<th>Higher Cost</th>
<th>Higher Priced</th>
<th>Static Rates</th>
<th>License</th>
<th>INL&amp;S</th>
<th>GSE</th>
<th>Enterprise Rates</th>
<th>HMDA</th>
<th>OPAC/ESN</th>
<th>Other</th>
</tr>
</thead>
<tbody>
<tr>
<td>ALERT</td>
<td>PASS</td>
<td>PASS</td>
<td>ALERT</td>
<td>PASS</td>
<td>PASS</td>
<td>ALERT</td>
<td>PASS</td>
<td></td>
<td>ALERT</td>
<td>PASS</td>
<td>PASS</td>
<td></td>
</tr>
</tbody>
</table>

   In this example, the maximum APR allowed to avoid a HPML is 5.96%; this loan received a “**Pass**” because its APR is 5.487%, which is below the max allowed.

4. Review the **Current APR** field in Encompass (see “**RegZ-LE**” form) to ensure it is within the threshold. Keep in mind, fee accuracy is crucial in determining APRs and HPML status. If fees are changed/updated the APR may also change, so it is important to be as accurate as possible when making an HPML determination.

5. **If HPML does not apply**, no further action is required for this procedure.

6. **If HPML applies to the Current APR**, regardless of whether the **Disclosed APR** is within the threshold, the loan is considered to be a HPML.
Taking Action if HPML Applies

Loan Processor 7. If the APR exceeds the HPML threshold:
   a. If the LO/Branch Manager does not adjust fees to reduce the APR below the maximum allowed for HPML, consult the Underwriter regarding the possibility of proceeding with the HPML (additional conditions and/or restrictions may apply).
   b. Contact the LO, who will consult his or her Branch Manager, regarding pricing options. The branch can apply lender credits in order to reduce the APR (Remember to mark fees “Paid by Lender” and be accurate, as disclosed lender credits cannot be reduced at a later date.)

   Important Note: In certain instances, applying lender credits may not be sufficient to cure the HPML (for example, with FHA loans that carry mortgage insurance for the life of the loan). Repricing for a lower interest rate may result in worst-case pricing, and a charge for the rate may also apply, which must be included in the APR. Consider these factors when determining whether this will cure the HPML status.

Approving HPML Files

Underwriter 8. Complete the Encompass HPML Checklist form (screen) to confirm the loan is eligible as a HPML.

   Note: If Mavent includes an alert for HPML (and it has not been cured), Underwriter cannot complete the PTD Review milestone until the HPML Checklist is complete.

9. Complete the Encompass Residual Income Worksheet form (screen) if applicable (as instructed when completing the HPML Checklist).

10. Condition the file with any additional items that apply due to the HPML status.
## Preparing For Docs and Funding

<table>
<thead>
<tr>
<th>Doc Drawer/ Funder</th>
<th>11. Check fees for accuracy, as is customary with all files.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>12. Rerun the Mavent report (see Step 2. of this procedure).</td>
</tr>
<tr>
<td></td>
<td>13. Review the <strong>Current APR</strong> field in Encompass (on &quot;RegZ-LE&quot; form) to ensure it is within the threshold shown on the Mavent report and under the required federal, state and HMDA rate spread thresholds to determine if it is a HPML.</td>
</tr>
<tr>
<td></td>
<td><strong>Important Note:</strong> Mavent Review uses the <strong>last Disclosed APR</strong> and not the <strong>Current APR</strong> when returning results; if the Current APR is under the threshold, the loan is not a HPML. As a reminder, a Mavent Preview must be accessed prior to release of closing documents; and a Mavent Review is used after closing documents are released.</td>
</tr>
<tr>
<td></td>
<td>14. If HPML, review Encompass HPML Checklist form (screen) to confirm the Underwriter has completed it and signed off at the bottom that it is an eligible HPML (&quot;This loan DOES meet HPML guidelines&quot;). If the checklist is not signed off in this manner, notify the Underwriter before proceeding with the file.</td>
</tr>
<tr>
<td></td>
<td>Do not release closing documents for a HPML file that has not been reviewed for HPML and signed off by the Underwriter.</td>
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