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Regulation Z – ATR/QM 2020 Amendment – Seasoned QMs

The Consumer Financial Protection Bureau (Bureau) issued a final rule in December 2020, to amend their Ability to Repay / Qualified Mortgage Rule (ATR/QM rule). The ATR/QM rule initially became effective in January 2014 and established different categories of QMs. This rule establishes a new category of QMs, referred to as a Seasoned QM.

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Links: [Final Rule - 12/29/2020](#)

On December 29, 2020, the Bureau published a final rule amending the ATR/QM Rule. The 2014 ATR/QM Rule required creditors to make good faith determinations of a consumer's ability to repay residential mortgage loans and also provided certain protections from liability for mortgage loans that meet the ATR/QM rule's requirements for qualified mortgages.

The focus of this 2020 rule is to establish a new category of Seasoned QMs.

Why The Need For A Seasoned QM?

As was shared within the preamble to the this 2020 rule, when related amendments were proposed, the Bureau stated that *“providing creditors with an alternative pathway to greater ATR compliance certainty for loans that satisfy the criteria set forth in proposed § 1026.43(e)(7) may result in greater access to responsible, affordable mortgage credit. For example, creditors may be more willing to maintain or expand access to credit to consumers with non-traditional income or a limited credit history, or to employ innovative methods of assessing financial information, as these loans could season into safe harbor QMs with satisfactory performance.”*

What Is A Seasoned QM?

When effective, the Seasoned QM definition will be added to the regulation. Generally, with exceptions, a Seasoned QM is a first-lien covered transaction that:

- Is a fixed rate mortgage with fully amortizing payments;
- Satisfies the requirements that the transaction provides for regular periodic payments that are substantially equal, does not exceed 30 years, does not exceed certain amounts for total points and fees (generally, 3% of the loan amount), the loan is underwritten taking into account the monthly payment for mortgage-related obligations, and where the creditor considers and verifies income or assets and debt obligations;
- Meets certain performance requirements at the end of the “seasoning period;”
- Satisfies portfolio requirements; and
- Is not a high-cost mortgage.

A loan made by any creditor is eligible to become a Seasoned QM if at the end of the “seasoning period” it meets the applicable requirements. **Generally, the “seasoning period” refers to a period of 36 months beginning on the date on which the first periodic payment is due after consummation.** This period can be extended in certain circumstances.

What Are The Performance Requirements?

As mentioned above, in order to qualify as a Seasoned QM, the loan must meet certain performance requirements. Generally, this means that the loan can have no more than 2 delinquencies of 30 or more days and no delinquencies of 60 or more days at the end of the “seasoning period.” In considering this performance requirement, a creditor should review regulatory definitions, details, and exceptions contained in the rule. For example, the Bureau has clarified that with regard to performance, a creditor can generally accept deficient payments, within a payment tolerance of up to \$50, on up to three occasions during

the “seasoning period” without triggering a delinquency for purposes of these performance standards, if certain standards are met.

What Are The Portfolio Requirements?

The new Seasoned QM rule contains a requirement related to the creditor holding the loan in portfolio. This generally means that such a loan would be eligible to be categorized as a Seasoned QM if the loan is not subject to a commitment to be acquired by another and that the creditor holds the loan in their portfolio until the end of the “seasoning period.” There are a few exceptions to this provision. For example, a **single** transfer would be permitted during the “seasoning period” if the loan is **not securitized** at that time or any other time before the end of the “seasoning period.”

What Else Should You Know?

The Bureau has clarified that loans that satisfy another QM definition at consummation also can be Seasoned QM loans, as long as the requirement for Seasoned QMs are met.

Recommendations for Next Steps

By March 1, 2021:

1. As applicable, if interested in Seasoned QMs, review the 2020 Seasoned QM rule to determine impact of the new QM category being made available.
2. Review policies and procedures and update materials supported by the final rule. This will include:
 - a. *Adding the definition of Seasoned QMs,*
 - b. *Implementing new qualifications, and*
 - c. *Implementing new monitoring processes that support compliance with qualifications.*
3. Train applicable staff on the new Seasoned QM rule and provisions, as well as any adjustments made to internal policies and procedures.
4. As applicable, if any systemic parameters are established to support Seasoned QM requirements, ensure they coincide with the final rule.