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**Regulation Z Ability to Repay:**

**Revised General QM Loan Definition Toolkit**

For use to supplement a financial institution’s residential mortgage loan policy and underwriting procedures regarding residential mortgages. The toolkit has been designed specifically to address components of the December 2020 final rule which revised the definition of a General Qualified Mortgage (General QM).

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**INTRODUCTION**

The Wisconsin Bankers Association (WBA) has prepared this Regulation Z Ability to Repay: Revised General QM Loan Definition Toolkit for use by financial institutions in understanding the 2020-2021 revisions to the Regulation Z general qualified mortgage (QM) definition. Overall, the toolkit has been designed to provide readers with a perspective of the rule change in relation to their operation, and prepare for implementation of revised loan policy and underwriting procedures, both in terms of practical and compliance considerations.

The toolkit is intended as a template only and must be customized by each financial institution to their specific situation prior to its implementation and use. Since it is a template only, it may not address every aspect of possible revisions to a lending policy and underwriting procedures at your particular financial institution. There is a list of “Additional Resources” at the end of this toolkit that financial institutions are encouraged to review for supplemental help in preparing their particular plan.

Furthermore, this toolkit is designed specific to the changes to the definition of the General QM. It does not discuss other QM categories, nor does it discuss components of the ability to repay rules not specific to the General QM definition.

**[NOTE TO THOSE FINANCIAL INSTITUTIONS ACTING AS SMALL CREDITOR UNDER REGULATION Z ATR/QM RULES:** The Regulation Z Ability to Repay/Qualified Mortgage (ATR/QM) Rule defines several categories of QMs. One category of QMs is the General QM category. For General QMs, the ratio of the consumer’s total monthly debt to total monthly income (DTI) must not exceed 43 percent. This toolkit addresses the recently finalized rule which changes the definition of the General QM.

All creditors are eligible to originate General QMs. However, small creditors are also eligible to originate Small Creditor QMs and Balloon-Payment QMs, for which the rules remain unchanged. **The Final Rule outlined in this toolkit does not affect a financial institution’s ability to originate Small Creditor QMs or Balloon-Payment QMs**.]

**BACKGROUND**

The Dodd-Frank Wall Street Reform and Consumer Protection Act amended the Truth in Lending Act (TILA) to establish ability to repay (ATR) requirements in order ‘‘to assure that consumers are offered and receive residential mortgage loans on terms that reasonably reflect their ability to repay the loans and that are understandable and not unfair, deceptive or abusive.’’ As amended, TILA prohibits a creditor from making a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan.

Furthermore, TILA identifies the factors a creditor must consider in making a reasonable and good faith assessment of a consumer’s ability to repay. However, in some cases, a creditor may not be certain whether its ATR determination is reasonable. TILA addresses this potential uncertainty by defining a category of loans, called qualified mortgages (QM), for which a creditor ‘‘may presume that the loan has met’’ the ATR requirements.

In January 2013, the Bureau of Consumer Financial Protection (CFPB) issued a final rule amending Regulation Z to implement TILA’s ATR requirements (ATR/QM Rule). The ATR/QM Rule defines several categories of QMs. One category of QMs is the General QM category. For General QMs, the ratio of the consumer’s total monthly debt to total monthly income (DTI) must not exceed 43 percent. Another, temporary category of QMs is the Temporary Government-Sponsored Enterprise (GSE) QM. Temporary GSE QMs are mortgages which, generally are eligible to be purchased or guaranteed by either GSE while under conservatorship. The 43 percent DTI limit did not apply to loans made under the Temporary GSE QM category.

After publishing an ATR/QM Rule Assessment Report in January 2019, CFPB initiated rulemaking with plans to allow the Temporary GSE QM loan definition to expire as was required under the Dodd-Frank Act and revise the General QM loan definition. This process resulted in CFPB issuing a final rule on December 29, 2020 (Final Rule) which amends the General QM loan definition in Regulation Z. Among other changes, the Final Rule replaces the existing 43 percent DTI limit with price-based thresholds. The Final Rule included a mandatory compliance date of July 1, 2021.

On April 27, 2021, CFPB issued a separate final rule to extend the mandatory compliance date of the Final Rule from July 1, 2021, to October 1, 2022. However, if a financial institution sells loans to Fannie Mae or Freddie Mac (collectively, the GSEs), compliance with the new rule need occur before October 2022. The GSEs operate under conservatorship, with financial support provided by the Department of Treasury, as directed by preferred stock purchase agreements (PSPAs). Recent amendments to the PSPAs impose certain criteria on loans acquired by the GSEs, including that acquired loans must be originated pursuant to the newly revised General QM definition for loans with application received dates on or after July 1, 2021. As such, financial institutions should consider how this may affect their implementation timeline.

**REVISED GENERAL QM DEFINITION**

As discussed in the Introduction, the Final Rule amends Regulation Z to replace the existing General QM definition. The Final Rule replaces the existing 43 percent DTI limit with a price-based limit and removes Appendix Q, including any requirements to use Appendix Q for General QM loans. Consequently, it amends the consider and verify requirements in Regulation Z section 1026.43(e)(2)(v) and its associated commentary.

The rest of this summary presents a broad perspective on what the Final Rule requires. WBA recommends that further review is also conducted of the full rule itself, including its commentary. A link to the Final Rule is provided in the resources section at the end of the toolkit.

*Price-Based Limit*

A loan meets the revised General QM definition only if the annual percentage rate (APR) does not exceed the average prime offer rate (APOR) for a comparable transaction in accordance with the applicable threshold as of the date the interest rate is set. Under the Final Rule, for purposes of determining whether an APR exceeds the APOR the new limits are set at:

(A) For a first-lien covered transaction with a loan amount greater than or equal to $110,260 (indexed for inflation), 2.25 or more percentage points;

(B) For a first-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation) but less than $110,260 (indexed for inflation), 3.5 or more percentage points;

(C) For a first-lien covered transaction with a loan amount less than $66,156 (indexed for inflation), 6.5 or more percentage points;

(D) For a first-lien covered transaction secured by a manufactured home with a loan amount less than $110,260 (indexed for inflation), 6.5 or more percentage points;

(E) For a subordinate-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation), 3.5 or more percentage points; and

(F) For a subordinate-lien covered transaction with a loan amount less than $66,156 (indexed for inflation), 6.5 or more percentage points.

A transaction’s APR is compared to the APOR as of the date the transaction’s interest rate is set (or “locked”) before consummation. Sometimes a creditor sets the interest rate initially and then re-sets it at a different level before consummation. The creditor should use the last date the interest rate is set before consummation.

The Final Rule creates a special rule for determining the APR for certain loans for which the interest rate may or will change. The rule applies to adjustable-rate mortgages

that have a fixed-rate period of five years or less and to step-rate mortgages for which the interest rate changes within that five-year period. For such loans, the creditor must determine the APR, for purposes of this threshold, by treating the maximum interest rate that may apply during that five-year period as the interest rate for the full term of the loan.

For example, assume an adjustable-rate mortgage with a loan term of 30 years and an initial discounted rate of 5.0 percent that is fixed for the first three years. Assume that the maximum interest rate during the first five years after the date on which the first regular periodic payment will be due is 7.0 percent. Pursuant to section 1026.43(e)(2)(vi), the creditor must determine the APR based on an interest rate of 7.0 percent applied for the full 30-year loan term.

Additionally, the Final Rule preserves the ATR/QM Rule’s current threshold separating safe harbor from rebuttable presumption QMs. Under that threshold, a loan is a safe harbor QM if its APR exceeds APOR for a comparable transaction by less than 1.5 percentage points as of the date the interest rate is set or by less than 3.5 percentage points for subordinate-lien transactions.

*Consider and Verify Requirements*

The revised General QM definition retains consider and verify requirements. These are important concepts given the fact the Final Rule has eliminated Appendix Q from the Regulation. Careful review of these concepts should be taken when looking to revise the institution’s lending policy and underwriting procedures to accommodate the changes made by the Final Rule.

First, the Final Rule requires that creditors *consider* the consumer’s current or reasonably expected income or assets (other than the value of the dwelling that secures the loan and any real property attached to that dwelling), debt obligations, alimony, child support, and DTI ratio or residual income. Second, it requires that creditors *verify* the consumer’s current or reasonably expected income or assets (other than the value of the dwelling that secures the loan and any real property attached to that dwelling) as well as the consumer’s debt obligations, alimony, and child support. A creditor must verify such amounts using reasonably reliable third-party records and reasonable methods and criteria. A creditor may only consider amounts that it has verified in accordance with the verification requirements.

The General QM Final Rule does not prescribe specifically how a creditor must consider the monthly DTI ratio or residual income or a particular monthly DTI ratio or residual income threshold. Also, the Final Rule does not prescribe specific methods of underwriting that a creditor must use (other than to require that verification methods and criteria must be reasonable). The Final Rule does provide flexibility for a creditor to take into account additional factors that are relevant in determining a consumer’s ability to repay the loan.

To prevent uncertainty that may result from Appendix Q’s removal, the Final Rule clarifies the consider and verify requirements in the revised General QM definition. For example, the Final Rule clarifies that to meet the requirement to consider, a creditor must:

* Take into account current or reasonably expected income or assets (other than the value of the dwelling that secures the loan and any real property attached to that dwelling), debt obligations, alimony, child support, and monthly DTI ratio or residual income in its ability-to-repay determination;
* Maintain written policies and procedures for how it takes into account income or assets, debt obligations, alimony, child support, and monthly DTI ratio or residual income in its ability-to-repay determination; and
* Retain documentation showing how it took into account income or assets, debt obligations, alimony, child support, and monthly DTI ratio or residual income in its ability-to-repay determination, including how it applied its policies and procedures.

Examples of such documentation may include an underwriter worksheet or a final automated underwriting system certification, in combination with the creditor’s applicable underwriting standards and any applicable exceptions described in its policies and procedures, that shows how these required factors were taken into account in the creditor’s ability-to-repay determination.

If a creditor does not satisfy this documentation requirement for a loan, that loan **is not a General QM under the revised definition.**

Additionally, the Final Rule includes a list of specific verification standards that creditors may use to meet the revised General QM definition’s verify requirement. Meeting the standards in the following manuals for verifying current or reasonably expected income or assets using third-party records provides a creditor with reasonably reliable evidence of the consumer’s income or assets. Similarly, meeting the standards in the following manuals for verifying current debt obligations, alimony, and child support using third-party records provides a creditor with reasonably reliable evidence of the consumer’s debt obligations, alimony, and child support. Accordingly, a creditor complies with the Final Rule’s verification standards if it complies with standards in one or more of the following manuals:

A. Chapters B3-3 through B3-6 of the Fannie Mae Single Family Selling Guide, published June 3, 2020;

B. Sections 5102 through 5500 of the Freddie Mac Single-Family Seller/Servicer Guide, published June 10, 2020;

C. Sections II.A.1 and II.A.4-5 of the Federal Housing Administration’s Single Family Housing Policy Handbook, issued October 24, 2019;

D. Chapter 4 of the U.S. Department of Veterans Affairs’ Lenders Handbook, revised February 22, 2019;

E. Chapter 4 of the U.S. Department of Agriculture’s Field Office Handbook for the Direct Single Family Housing Program, revised March 15, 2019; and

F. Chapters 9 through 11 of the U.S. Department of Agriculture’s Handbook for the Single Family Guaranteed Loan Program, revised March 19, 2020.

A creditor need not comply with requirements in the manuals listed above other than those that require creditors to verify income, assets, debt obligations, alimony, and child support using specified documents or to classify and count particular inflows, property, and obligations as income, assets, debt obligations, alimony, and child support.

A creditor complies with the regulation where it complies with revised versions of the manuals listed above so long as the two versions are substantially similar. Additionally, a creditor may, but is not required, to use verification standards from more than one listed manual by “mixing and matching” verification standards.

Links to the manuals listed above may be found in the Additional Resources section of this toolkit.

Lastly, if a creditor satisfies the verification standards in one or more specified manuals, the creditor has a safe harbor for compliance with the verification requirement in the revised General QM definition.

**IMPLEMENTATION CONSIDERATIONS**

Given that the Final Rule removes both the 43 percent DTI ratio limitation of the General QM definition and Appendix Q from Regulation Z, financial institutions need consider whether changes need be made to its loan policy and underwriting procedures and how then to implement the changes.

The following considerations are presented as a starting point for institutions to begin evaluating the implications of the Final Rule. Presented first are applicability and timing considerations. A checklist and practical guidance follows.

*Applicability and Timing*

As discussed earlier in the toolkit, the ATR/QM rule has several categories of QMs. All creditors are eligible to originate General QMs, which is the type of QM discussed in this toolkit. However, small creditors are also eligible to originate Small Creditor QMs and Balloon-Payment QMs, for which the rules remain unchanged. The Final Rule does not affect an institution’s ability to originate Small Creditor QMs or Balloon-Payment QMs.

Another category of QM, the temporary GSE category of QMs, expires on the earlier of October 1, 2022, or the date on which the government-sponsored enterprises exit conservatorship. As a result of these considerations, institutions should evaluate the categories of QMs it originates, and how the revised General QM definition may or may not affect its current loan policy and underwriting procedures. For example, is the bank currently eligible to originate Small Creditor QMs? Does the bank originate General QMs? Will the bank originate General QMs, or exclusively utilize the Small Creditor QM exception, if applicable?

Additionally, timing considerations may change based upon the types of loans the financial institution originates. While CFPB delayed the Final Rule’s mandatory compliance date to October 1, 2022, it is still effective as of March 1, 2021. As a result, institutions may begin implementation prior to the mandatory compliance date.

Financial institutions also need consider any secondary market or investor requirements that may require earlier implementation. In particular, Fannie Mae and Freddie Mac both require any loan sold to either government sponsored entity (GSE) to comply with the revised General QM definition under the Final Rule for applications received on or after July 1, 2021. As a result, loans sold to the GSEs do not receive the benefit of a delayed October 2022 mandatory compliance date.

Regardless, institutions should begin assessing their implementation process in order to be prepared for the mandatory compliance date. The following sections are designed to assist in that process.

**IMPLEMENTATION CHECKLIST**

The following is a nonexclusive list of steps that may need be taken to initiate changes to a financial institution’s loan policy and underwriting procedures to prepare for the October 1, 2022 mandatory compliance date. Institutions should adjust the checklist as appropriate for its own operation.

⬜ Identify whether the Final Rule affects the financial institution.

⬜ Identify affected products, departments, and staff.

⬜ Identify processes, operational, and technology changes that will be necessary.

⬜ Identify any impact on service providers or business partners.

⬜ Identify training needs.

⬜ Develop policies and procedures to comply with any mandatory compliance date.

⬜ Obtain board of director approval of any change to loan policy and/or underwriting procedures.

*Implementation Discussion*

Step One: While the Final Rule does not change coverage, financial institutions should still set the scope of which products will be affected. For example,

Does the Final Rule impact the bank or does the bank only originate other types of QM loans unaffected by the Final Rule?

If the bank originates General QM loans, which products are impacted by the Final Rule?

 PRODUCT 1: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 PRODUCT 2: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 PRODUCT 3: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Does the bank have any non-General QM residential mortgage loan products for which underwriting procedures is based upon the 43% DTI ratio or Appendix Q standards that the bank need consider be revised?

 PRODUCT 1: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 PRODUCT 2: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Step Two: Once a scope is identified, the financial institution should determine whether it will change the product, discontinue the product, or possibly change investors or decide to work with others as a result of the changes made by the General QM rule. Once the scope is identified, the institution should identify which staff will be impacted by the change and create a team to help implement any change to loan policy and underwriting procedures.

Revised General QM Rule Coordinator and Team/Responsibilities

The **[BANK NAME]**’s Revised General QM Rule coordinator and team is comprised of the following individuals.

1. \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, Coordinator.
2. ­­­­­­­­­\_\_[Residential Mortgage Supervisors, other Senior Mortgage Lenders, Loan Committee Members, Underwriters ]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
3. \_\_[Compliance Officer, Legal, Audit]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
4. \_\_[IT, Mortgage Lending Software Personnel, other system operations personnel] \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
5. \_\_[Trainers]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_
6. \_\_[Marketing; or Others as appropriate]\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Certainly, different committee members may be engaged in the project at different times but identifying a team and the roles and responsibilities of each party should help with the overall process.

Step Three: Start the review process and engage in discussion regarding the impact of the Final Rule and make decisions of how the financial institution should proceed with revising any loan policy and underwriting procedures with key personnel. Discussion should include:

* Understand the new rule and its impact on bank, including what products are impacted.
* Will bank change what mortgage products it originates?
* How will new price-based limits impact bank’s current rate or fee structures; perhaps bank’s APR is already well below the new price-based limit thresholds.
* Does bank need reevaluate how it compares APR to APOR under FFIEC’s rate spread calculator or other direct comparison depending on sophistication of underwriting software programs?
* Did bank previously utilize the 43 percent DTI ratio cap or did bank perhaps a lower rate?
* Will bank continue to use its current DTI ratio or utilize another method permitted under the Final Rule?
* If bank is changing its previously established DTI ratio, how does the change impact bank’s risk assessment of its residential loan origination activities?
* With the removal of Appendix Q, what will bank use as tool to meet all consider and verify requirements of the Final Rule?
* What are the requirements of any secondary market investor or other investor bank utilizes; will those requirements be the only standards bank uses or will bank create separate standards for General QM loans not sold to an investor?
* Will bank use or modify any of the tools identified in the Final Rule?
* Is there any loan system change to be implemented, any underwriting software programs to be updated to accommodate any change, can the underwriting software accommodate bank’s plan?
* How will bank document how it took into account income or assets, debt obligations, alimony, child support, and monthly DTI ratio or residual income in its ability-to-repay determination, including how it applied its policies and procedures? How will such documentation be retained? Is there any secondary market or investor documentation or retention requirements of such information?
* Any other questions.

Step Four: Action steps then need be taken to begin to train, educate, and otherwise work towards implementation of the changes in advance the mandatory compliance date or any investor requirement. Again, having a committee with roles and responsibilities defined should help to keep the project moving forward to meet the financial institution’s deadlines, including with the following possibilities:

* Identifying what policies need be updated.
* Identify what specifically within bank’s policies and procedures need be updated and make the necessary updates, including perhaps:
	+ any new DTI ratio or formula
	+ any new controls for new APOR loan pricing requirements
	+ new steps for consideration of income
	+ how bank will meet consideration requirements
	+ how bank will meet verification requirements
	+ how bank will document its consider and verify actions
	+ what bank need change and implement to meet secondary market and investor requirements

* Identify if any changes impact bank’s underwriting systems, including:
* what system update may be possible
* will any system update be of use to bank
* when will the changes be available for testing and use
* will the changes result in need for system training; if so, when will training be available; who needs the new training; how will training be completed
* Act to update and implement that which has been identified that need be changed or implemented.
* Identify and update any heighted risk assessment, including determining whether bank need inform its bonding and insurance coverage provider of applicable changes.
* Bank Board of Directors need be made aware of changes and approve changes.
* Identify and train staff, including underwriters, loan reviewers, file documentation and loan operations staff, lenders, and any others impacted by the changes.
* Update any steps within audit review or focus.
* If a product line has changed, likely need update marketing materials to reflect new product offerings; identify when old products will no longer be offered to identify sunset date of the retiring product; how/when will staff be notified of the product changes
* Record retention, what should be retained for documentation that bank has meet consider and verify standards, any change to current standard or process.
* Create timeline and establish deadlines.
* Other actions items.

**SELECT TEMPLATE LOAN OR UNDERWRITING POLICY PROVISIONS**

Under the current *Interagency Guidelines for Real Estate Lending*, financial institutions must adopt and maintain written policies that establish appropriate limits and standards for extensions of credit that are secured by liens on or interests in real estate, or that are made for the purpose of financing permanent improvements to real estate.

Pursuant to the guidelines, financial institutions are to have lending policies that address underwriting standards that are approved by the institution’s Board of Directors at least annually. The guidelines also require the policies to identify the types of loans the institution will originate and how the loans are to be underwritten. The policies also must reflect the financial institution’s current underwriting policies.

As a result of the changes made by the Final Rule, financial institutions need update their loan policy and underwriting policies, as applicable. Institutions need also document that its Board of Directors have approved the updated policies. Financial institutions should expect regulators to begin asking for and reviewing policy updates, as applicable, as time nears the Final Rule’s mandatory compliance date.

The following is a list of nonexclusive provisions designed to help institutions identify areas that may need be updated within an existing loan policy or underwriting procedures. The nonexclusive provisions are to be completed, modified, and adapted by the financial institution, as appropriate. Not all provisions will be applicable to an institution’s policy.

Updated provisions should then be incorporated into the financial institution’s existing underwriting policies to accommodate for how the institution has incorporated revisions made to the General QM definition by the Final Rule.

The interagency guidelines mentioned above have several sections which address what an institution’s lending policy need to have outlined. The following select provisions run in order, consistent with the interagency guidelines. For ease of identification, included are section headers from the guidelines.

**Loan Portfolio Management Considerations.**

The interagency guidelines provide a general outline of what each financial institution need consider within its loan portfolio management. Included is for the institution to establish loan origination procedures. If a financial institution plans to include specific price-based thresholds for which it will originate General QM loans in accordance with, the institution may want to consider the new price-based levels under the Final Rule.

*The provisions provided below are intended for each institution to adjust it for its own practical considerations, at the institution’s own discretion.*

\*\*For General QM loans, [bank name] will incorporate into its origination and underwriting procedures the price-based limits of the comparison of a loan’s annual percentage rate to the average prime offer rate for a comparable transaction as required is required by the Truth in Lending Act, Regulation Z, as may be amended for inflation or for other changes in law related to General QM loans.

Alternatively:

\*\*For General QM loans, [bank name] will incorporate into its origination and underwriting procedures the following price-based limits of the comparison of a loan’s annual percentage rate to the average prime offer rate for a comparable transaction as required is required by the Truth in Lending Act, Regulation Z, as may be amended for inflation or for other changes in law related to General QM loans.

For a first-lien covered transaction with a loan amount greater than or equal to $110,260 (indexed for inflation), 2.25 or more percentage points;

For a first-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation) but less than $110,260 (indexed for inflation), 3.5 or more percentage points;

For a first-lien covered transaction with a loan amount less than $66,156 (indexed for inflation), 6.5 or more percentage points;

For a first-lien covered transaction secured by a manufactured home with a loan amount less than $110,260 (indexed for inflation), 6.5 or more percentage points;

For a subordinate-lien covered transaction with a loan amount greater than or equal to $66,156 (indexed for inflation), 3.5 or more percentage points.

For a subordinate-lien covered transaction with a loan amount less than $66,156 (indexed for inflation), 6.5 or more percentage points.

**Underwriting Standards**

The interagency guidelines provide a general outline of what each financial institution need consider within its loan underwriting standards. Included is for the institution to establish relevant credit factors. As financial institutions are required to establish written underwriting procedures to determine under Final Rule the consumer’s ability to repay a covered transaction, the institution will want to consider several documentation and underwriting factors of the Final Rule.

General QM Loans

*DTI Ratio, Monthly DTI or Residual Income*

\*\*[For General QM loans], [bank name] has established a \_\_\_\_\_ percent debt to income ratio limit. General QM loan applications with a higher debt to income limit is considered an exemption to [bank name’s] residential General QM loan policy and approval of the application need be in accordance with [bank name’s] loan exception policy.

\*\*[For General QM loans], [bank name] will consider [the consumer’s monthly debt to income ratio][the consumer’s monthly residual income][the consumer’s monthly debt to income ratio and the consumer’s residual income as further validation of the assessment made using the consumer’s monthly debt to income ratio], in accordance with the Truth in Lending Act, Regulation Z, for making a reasonable and good faith determination of a consumers’ ability to repay.

\*\*[For General QM loans], [bank name] will consider factors in addition to [monthly debt to income ratio][monthly residual income] in assessing a consumer’s repayment ability. [bank name] will consider [assets other than the dwelling (including any real property attached to the dwelling) securing the covered transactions, such as a savings account; bank need list its other considerations].

\*\*[For General QM loans], [bank name] may reasonably and in good faith determine that a consumer has the ability to repay despite a higher debt to income ratio in light of the consumer’s residual income.

*Consider*

\*\*[For General QM loans], [bank name] will take into account current or reasonably expected income or assets other than the value of the dwelling (including any real property attached to the dwelling) that secures the loan, debt obligation, alimony, child support, and [monthly debt to income][residual income] in its ability-to-repay determination.

\*\*[For General QM loans], [bank name] will take into account [identify the types of current or reasonably expected income bank will consider to support its determination the consumer has the ability to repay the covered transaction, including the following examples: salary; wages; self-employment income; military or reserve duty income; bonus pay; tips; commissions; interest payments; dividends; retirement benefits or entitlements; rental income; royalty payments; trust income; public assistance payments; and alimony, child support, and separate maintenance payments.]

\*\*[For General QM loans], [bank name] will take into account [identify the types of current or reasonably expected debt obligations, alimony, and child support bank will consider to support its determination the consumer has the ability to repay the covered transaction, including the following examples: student loans, automobile loans, revolving debt, and existing mortgages that will not be paid off at or before consummation.]

\*\*[For General QM loans], [bank name] will retain documentation showing how it took into account income or assets, debt obligations, alimony, child support, and [monthly debt-to-income][residential income] in its ability to repay determination, including how [bank name] applied its policies and procedures, in order to meet the consideration requirements of the Truth in Lending Act, Regulation Z. This documentation is to include [list the documentation bank plans to use to satisfy its requirements, e.g., underwriting system certification in combination with bank’s underwriting standards].

*Verification*

\*\*[For General QM loans], [bank name] will verify a customer’s current or reasonably expected income or assets other than the value of the dwelling (including any real property attached to the dwelling) that secures the loan, in accordance with the Truth in Lending Act, Regulation Z, as applicable.

\*\*[For General QM loans], [bank name] will verify a customer’s current debt obligations,

alimony, and child support in accordance with the Truth in Lending Act, Regulation Z, as applicable.

\*\*[For General QM loans], [bank name] will verify such expected income or assets, debt obligations, alimony, and child support using reasonably reliable third party records. To meet this standard, [bank name] will use [one][one or more] of the following manuals:

[Chapters B3-3 through B3-6 of the Fannie Mae Single Family Selling Guide, published June 3, 2020]

[Sections 5102 through 5500 of the Freddie Mac Single-Family Seller/Servicer Guide, published June 10, 2020]

[Sections II.A.1 and II.A.4-5 of the Federal Housing Administration’s Single Family Housing Policy Handbook, issued October 24, 2019]

[Chapter 4 of the U.S. Department of Veterans Affairs’ Lenders Handbook, revised February 22, 2019]

[Chapter 4 of the U.S. Department of Agriculture’s Field Office Handbook for the Direct Single Family Housing Program, revised March 15, 2019]

[Chapters 9 through 11 of the U.S. Department of Agriculture’s Handbook for the Single Family Guaranteed Loan Program, revised March 19, 2020]

**TEMPLATE BANK BOARD RESOLUTION**

The following page is a template board resolution which may be revised and used by the financial institution to memorialize the adoption of the institution’s revised loan policy and/or underwriting procedures which implement changes made due to the revised General QM definition in the Final Rule.

The institution need revise the template accordingly. Due to the language within the template resolution, the institution need attach its revised loan and/or underwriting policy to the resolution.

**RESOLUTIONS OF BOARD OF DIRECTORS OF**

**[*Name of Bank*]**

 WHEREAS, the Truth in Lending Act and Regulation Z prohibit [*Name of Bank*] ("**Bank**") from making a residential mortgage loan unless the Bank makes a reasonable and good faith determination on verified and documented information that the consumer has a reasonable ability to repay the loan.

 WHEREAS, the Truth in Lending Act and Regulation Z require Bank to consider and verify the consumer’s current or reasonably expected income or assets (other than the value of the dwelling that secures the loan and any real property attached to that dwelling), debt obligations, alimony, child support, debt to income ratio or residual income, and document such actions (**"Revised General QM Definition Rule"**); and

 WHEREAS, the Revised General QM Definition Rule has a mandatory compliance effect date of October 1, 2022.

 NOW, THEREFORE, BE IT RESOLVED, that for the reasons described above, the Board hereby approves the attached [*name of bank’s loan or underwriting policy being revised*] (the "**Policy**") and authorizes and directs the officers of Bank to implement the Policy on behalf of Bank; and

 RESOLVED, that the actions of the officers and directors of Bank previously taken in connection with the Policy are hereby ratified and approved; and

 RESOLVED, that the officers of Bank are authorized and directed to do and perform any and all further acts that are necessary, appropriate or desirable to effectuate the foregoing resolutions.

**CERTIFICATE**

 The undersigned, who is the duly elected, qualified and acting \_\_\_\_\_\_\_\_\_\_\_\_\_ of the Bank, hereby certifies that the foregoing resolutions are true and correct copies of the Resolutions duly adopted by a majority of the entire Board of Directors of the Bank at a meeting of a quorum of its directors held on\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and that such resolutions have not been amended, modified or rescinded and remain in full force and effect.

Dated: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

 By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

 (Title)

**ADDITIONAL RESOURCES**

* December 29, 2020 Final Rule: <https://www.govinfo.gov/content/pkg/FR-2020-12-29/pdf/2020-27567.pdf>
* April 30, 2021 Final Rule (delay): <https://www.govinfo.gov/content/pkg/FR-2021-04-30/pdf/2021-09028.pdf>
* Ability-to-Repay and Qualified Mortgage Small Entity Compliance Guide: <https://files.consumerfinance.gov/f/documents/cpfb_atr-qm_small-entity_compliance-guide.pdf>
* Regulation Z and its Official Commentary: <https://www.consumerfinance.gov/rules-policy/regulations/1026/1/>

\*Chapters B3-3 through B3-6 of the Fannie Mae Single Family Selling Guide, published June 3, 2020, <https://www.allregs.com/tpl/?r=3c03fdfd-b8fe-4942-a6bb-e2c2da24cff5>

\*Sections 5102 through 5500 of the Freddie Mac Single-Family Seller/Servicer Guide, published June 10, 2020, <https://www.allregs.com/tpl/?r=fbdada95-aa34-40ea-80af-3e008009e159>

\*Sections II.A.1 and II.A.4-5 of the Federal Housing Administration’s Single Family Housing Policy Handbook, issued October 24, 2019, <https://www.regulations.gov/document/CFPB-2020-0020-0002>

\*Chapter 4 of the U.S. Department of Veterans Affairs’ Lenders Handbook, revised February 22, 2019, <https://www.regulations.gov/document/CFPB-2020-0020-0003>

\*Chapter 4 of the U.S. Department of Agriculture’s Field Office Handbook for the Direct Single Family Housing Program, revised March 15, 2019, <https://www.regulations.gov/document/CFPB-2020-0020-0005>

\*Chapters 9 through 11 of the U.S. Department of Agriculture’s Handbook for the Single Family Guaranteed Loan Program, revised March 19, 2020, <https://www.regulations.gov/document/CFPB-2020-0020-0004>

(\*Links provided for guide resources are from the December 29, 2020, Final Rule, pages 86358-86359, footnote 280.)