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Qualified Mortgage Rule and the Ability-To-Repay

with guest Jim Fuchs

Talking Points

The Consumer Financial Protection Bureau's (CFPB) Qualified Mortgage Rule and Definition of "Ability to Repay"

Rule requires creditors to consider eight underwriting factors for nearly all residential mortgage loans:

- Current or "reasonably expected" income or assets
- Current employment status
- Monthly payments on the mortgage transaction
- Monthly payments on any simultaneous loans
- Monthly payments for "mortgage-related" obligations
- Current debt obligations (includes alimony, child support)
- Monthly debt-to-income ratio / residual income
- Credit history

What are qualified mortgages (QM)?

- Presumed to have satisfied the rule's **eight underwriting factors** (the "ability to repay" provisions above) and also have the following additional features:

To be considered a QM:

- No negative amortization
- No interest-only payments
- No balloon payments (with some exceptions)
- No loan terms that exceed 30 years
- Points and fees may not exceed three percent of the total loan amount (with some exclusions for prime and small loans)
- Monthly payments must be based on the highest payment that would apply in the first five years
- The debt-to-income ratio may not exceed 43 percent
- Income and assets must be verified

Qualified Mortgages are granted a legal "safe harbor" as long as they also are not considered "higher-priced"

Exceptions to QM rule

- Loans that exceed the 43 percent DTI threshold but satisfy the requirements of the GSEs (while under conservatorship), HUD, VA, Dept. of Agriculture, or the Rural Housing Service can be QM's until these agencies issue their own QM rules or GSE conservatorship ends or after seven years.
- Balloon-payment mortgages may be QM's if: 1) they have a term of at least five years, and 2) a fixed interest rate, and 3) the lender originates at least 50% of first lien mortgages in rural areas, has less than $2 billion in total assets, originates no more than 500 mortgages per year, and holds the loan in portfolio for at least three years.