

Federal Reserve Bank of San Francisco
101 Market Street, San Francisco, California 94105

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To State Member Banks, Bank
Holding Companies, Financial Holding
Companies, Savings and Loan Holding Companies,
and Foreign Banking Offices
in the Twelfth Federal Reserve District

CFPB Finalizes April Clarifications to the Ability-to-Repay and Mortgage Servicing Rules

On July 10, 2013, the Consumer Financial Protection Bureau (CFPB) finalized corrections, clarifications, and amendments to its Ability-to-Repay and mortgage servicing rules. The clarifications were first proposed in April 2013. Among other things, the [final rule](#):

- **Clarifies how to determine a consumer's debt-to-income (DTI) ratio:** Under the Ability-to-Repay rule, a lender may make a Qualified Mortgage (QM), a loan for which certain features are prohibited and fees that can be charged are limited. The main type of QM requires that a consumer's monthly debt payments, including the mortgage, will not be more than 43 percent of the consumer's monthly income. The final rule provides clarification and amends how factors can be used to calculate a consumer's DTI ratio.
- **Explains that CFPB's RESPA rule does not preempt the field of servicing regulation by states:** The preamble to the CFPB's final mortgage servicing rules made clear that the CFPB's authority on servicing, from the Real Estate Settlement Procedures Act (RESPA), does not preempt the field of possible mortgage servicing regulation by states. The final rule adds a comment to expressly state this point and explain how RESPA preemption works.
- **Establishes which mortgage loans to consider in determining small servicer status:** The servicing rules issued in January 2013 included an exemption from some requirements for small servicers. The final rule clarifies which mortgage loans will be considered in determining whether a servicer qualifies as small.
- **Clarifies the eligibility standard of the temporary QM provision:** Under the Ability-to-Repay rule, a loan can be a QM if it is eligible for purchase, guarantee, or insurance by government sponsored enterprises (GSEs) or by certain federal agencies, provided the loan does not contain certain risky features and meets certain limitations on points and fees. The final rule clarifies the standards that a loan must meet if the creditor is underwriting it based on GSE or agencies guidelines.

Resource

The CFPB established a [regulatory implementation page](#) to assist institutions in implementing the 2013 mortgage rules. The site includes a variety of resources including, among other things, downloadable compliance guides, quick reference charts, and supervision and examination materials. The CFPB also recently released a [Readiness Guide](#) that provides guidelines for institutions to evaluate their readiness and help them comply with the new 2013 mortgage rule changes.

Additional Information

All circulars and documents are available on the Internet through the Federal Reserve Bank of San Francisco's website, at <http://www.frbsf.org/banking/letters>.

For additional information regarding supervisory expectations, please contact:

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