



# Correspondent Seller

## CFPB Regulatory Changes

January 1, 2014

In 2013, the Consumer Financial Protection Bureau (CFPB) issued a final rule that implements the Ability-to-Repay (ATR) and Qualified Mortgage (QM) provisions of the Dodd-Frank Act. Starting January 10, 2014, lenders must assess the borrower’s ability to repay for virtually all closed-end residential mortgage loans.

Additionally, the CFPB issued final rules implementing amendments to the Equal Credit Opportunity Act (ECOA) and Truth in Lending Act (TILA) covering new requirements under HOEPA, Loan Originator Compensation, Higher-Priced Mortgage Loans (HPML) as well as amendments to RESPA and TILA for servicing requirements.

**Disclaimer:** This announcement addresses general points of reference and does not document all requirements under CFPB’s 7 new rules (ATR/QM, HOEPA, ECOA Valuation, Loan Originator Rule, TILA HPML Appraisals, Escrows, TILA and RESPA Servicing) and the GSE’s new QM requirements. This interpretation shall not be deemed to be legal advice and cannot be relied upon. It is simply advisory and does not absolve correspondents of their responsibility to insure that all loans comply in all respects to state, federal and local rules and regulations regardless of the opinions stated within this document. Our interpretation is subject to change with and without notice.

### Announcement Directive

Correspondents are responsible for reviewing and understanding the final rules issued by the CFPB to implement the Dodd-Frank Act, including but not limited to ATR-QM, ECOA Valuations, HOEPA and HPML Appraisals. Seeking legal and compliance assistance to determine actions required to fully comply with the new CFPB rules is necessary.

The table below outlines topics addressed in this policy along with the applicable effective date:

Requirement	Effective Date
Ability to Repay – Qualified Mortgage (ATR-QM)	Applications taken on or after January 10, 2014
Disclosure Notices	Applications taken on or after January 10, 2014
ECOA Valuations	Applications taken on or after January 18, 2014
Homeownership Counseling Amendments	Applications taken on or after January 10, 2014
Payment History and Loan Information	Loans purchased on or after January 10, 2014

### Qualified Mortgage

Five types of Qualified Mortgages exist under the rule. Three types can be originated by all creditors: QM-General, QM-HPML, and QM-Temporary (GSE). Two other types can only be originated by small creditors: Small Creditor and Balloon-Payment QMs.

**Impac will only purchase the following loan types at this time:**

- **QM General Loans (Jumbo loans only):** These loans must satisfy all requirements for points, fees, and APR threshold, as well as underwriting guidelines addressed in Appendix Q of the ATR/QM rule. Reference: Consumer Financial Protection Board - <http://www.consumerfinance.gov/mortgage-rules-at-a-glance/>



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- **Non-Standard to Standard Refinances:** These loans must satisfy the non-standard to standard refinance guidelines addressed in the ATR/QM Rule.
- **QM Temporary Loans:** Loans eligible for purchase by Fannie Mae or Freddie Mac or for insurance or guarantee by FHAVA//USDA are deemed “Temporary QM” loans. This includes loans that exceed the HPML APR threshold. QM Temporary loans must meet the same requirements as General QM loans regarding prohibitions on risky features, points and fees, and APR thresholds, however, must be underwritten using the required guidelines of the entities previously identified, including any relevant DTI guidelines. These loans do not have to meet the 43% DTI ratio thresholds that applies to QM loans.  
*Important Note:* The temporary provision expires, for loans eligible for purchase or guarantee by the GSEs, on the date that the GSEs exit federal conservatorship or receivership or on January 10, 2021, whichever occurs first.

### **Loans falling into the following categories and loan types are not currently eligible for purchase by Impac:**

- Non-QM loans, QM General Loans (with the exception of Jumbo loans), HOEPA, Small Creditor QM and Small Creditor Balloon-Payment QMs.
- Loans with terms greater than 30 years, loans with mandatory arbitration clauses, loans with financed credit insurance.
- Loans with risky features, such as negative amortization, interest only or loans with a balloon payment.

### **Loans that include fees paid to an affiliate of a lender or mortgage broker are eligible for purchase by Impac, but the Correspondent Seller is responsible for ensuring that these loans comply with all applicable regulations:**

Correspondents must fully disclose if their business affiliations generate a fee for services on funded loans. Those fees must be included in the points and fees threshold calculated for the loan. As a reminder, affiliated businesses include escrow companies, title companies, or other similar service providers. An affiliate is any company that controls, is controlled by, or is under common control with the originator. This may include the parent company and its subsidiaries as well as sister companies. For banks, this includes any other bank held by the same bank holding company.

- *Note:* Commissions earned by a licensed real estate agent for the sale of a property are not included in the originator compensation, regardless of the real estate agent’s affiliation.
- *Important Note:* Loans delivered to Impac with the points and fees exceeding the regulatory maximum will **not** be purchased.

### **New Disclosure Notices**

- **NMLS Identification:** The rule requires that certain identification information, such as the primary originator’s name and NMLS unique identifier (NMLS ID), and the name and NMLS

ID of the originator's employer, if any, appear on the Uniform Residential Loan Application, the Note, and the Security Instrument.

- **Anti-Steering Disclosure (Wholesale loans only):** This disclosure requirement applies to Correspondent Sellers who originate Wholesale loans. The requirements for presenting loan options to a borrower have changed. The third option must now include a loan with the lowest total dollar amount of discount points, origination points or origination fees (or, if two or more loans have the same total dollar amount of discount points, origination points or origination fees, the loan with the lowest interest rate that has the lowest total dollar amount of discount points, origination points or origination fees).
- **Appraisal disclosure on all loans:** Within three days of taking a loan application, provide the borrower with the following disclosure:

We may order an appraisal to determine the property's value and charge you for this appraisal. We will promptly give you a copy of any appraisal, even if your loan does not close. You can pay for an additional appraisal for your own use at your own cost.

*Note:* QM HPML loans do not require the word "promptly" in the disclosure.

- **Homeownership Counseling Disclosure:** Within three days of taking a loan application, provide the borrower with a written list of homeownership counseling organizations. The list must contain ten HUD-approved housing counseling agencies near the borrower's current zip code, and can be acquired from HUD or CFPB's website which automatically generates the required list subject to the borrower's zip code: <http://www.consumerfinance.gov/find-a-housing-counselor/>

Until Correspondents can incorporate the ten HUD-approved counseling agencies into their disclosures, the CFPB allows and Impac will accept the following Temporary Disclosure for the Homeownership Counseling Disclosure until May 1, 2014:

Housing counseling agencies approved by the U.S. Department of Housing and Urban Development (HUD) can offer independent advice about whether a particular set of mortgage loan terms is a good fit based on your objectives and circumstances, often at little or no cost.

If you are interested in contacting a HUD-approved housing counseling agency in your area, you can visit the Consumer Financial Protection Bureau's (CFPB) website, [www.consumerfinance.gov/find-a-housing-counselor](http://www.consumerfinance.gov/find-a-housing-counselor) and enter your zip code.

You can also access HUD's housing counseling agency website: [www.consumerfinance.gov/mortgagehelp](http://www.consumerfinance.gov/mortgagehelp)

For additional assistance with locating a housing counseling agency, call the CFPB at 1-855-411-CFPB (2372).

## ECOA Valuations

The ECOA Valuation final rule require creditors to promptly provide to all borrowers, free of charge, all appraisals **and** other written valuations developed in connection with a loan. Promptly means 'promptly upon completion,' or 'no later than three business days before loan consummation' (for closed-end credit) or account opening (for open-end credit), whichever is earlier. For example, if a loan will close on Friday, April 4, the valuation must be delivered no



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later than Tuesday, April 1. If the loan does not close, copies of the appraisals and other written valuations must be delivered “promptly upon completion,” or within 30 days after the loan is denied, withdrawn, closed for incompleteness, etc.

**HPML Loans:** A second appraisal (at no cost to the borrower) is required, if the property is:

- Acquired within 90 days, if the resale price is 10% over acquisition price; or
- Acquired within 180 days, if the resale price is 20% over acquisition price

*Note:* The appraisal from the seller’s acquisition or finance of the property cannot be used to satisfy the requirement for an additional appraisal.

### **Payment History and Loan Information**

The following are required on any loan when the borrower makes a payment to the Correspondent Seller prior to purchase by Impac:

- Correspondents must ensure procedures are in place to provide a copy of the payment history data for all payments collected by the Correspondent after closing.
- Including servicing-related notes and any correspondence with the borrower at the time Impac purchases the loan is imperative. Updates must be provided at the time of servicing transfer.