

Legal and Compliance Report—March 2020¹

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March 30, 2021

CFPB Proposes Delay of Mandatory Compliance Date for General QM Rule

On March 3, 2021, the CFPB released a notice of proposed rulemaking (“[NPRM](#)”) to delay the mandatory compliance date of the General Qualified Mortgage (“QM”) Final Rule. If finalized, the NPRM would postpone the mandatory compliance date from July 1, 2021 to October 1, 2022.

Background. Last December, the CFPB issued the [General QM Final Rule](#) to amend Regulation Z and revise the definition of a “General QM” by eliminating the General QM loan definition’s 43 percent debt-to-income ratio (DTI) limit and replacing it with bright-line price-based thresholds. This new General QM definition became effective on March 1, 2021. The General QM Final Rule also eliminates QM status resulting solely from loans meeting qualifications for sale to Fannie or Freddie Mac (GSEs), known as the “GSE Patch.”

The Delay. In a [press release](#) announcing the NPRM, the CFPB explained that by “proposing to extend the date by which lenders must comply with the CFPB’s new General QM definition, we are working to provide needed options for both homeowners and lenders during a time of uncertainty and hardship.” The NPRM further notes concerns “that the potential impact of the COVID-19 pandemic on the mortgage market may continue for longer than anticipated at the time the Bureau issued the General QM Final Rule, and so could warrant additional flexibility in the QM market to ensure creditors are able to accommodate struggling consumers.”

Extending the mandatory compliance date will allow lenders to offer QM loans based on either the old or new QM definitions, including the GSE Patch (unless the GSEs exit conservatorship), until October 1, 2022. The expiration of the Temporary GSE Patch QM has been tied to the Revised General QM Rule’s mandatory compliance date.

This NPRM follows a statement issued by the CFPB on February 23, 2021 (available [here](#)), in which the CFPB stated that it was considering whether to revisit final rules issued last year that took effect March 1 concerning the definition of a Qualified Mortgage and the establishment of a “Seasoned QM” category of loans. The NPRM, however, states “this rulemaking does not reconsider the merits of the price-based approach adopted in the General QM Final Rule. . . .Rather, this proposal addresses the

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narrower question of whether it would be appropriate in light of the continuing disruptive effects of the pandemic to help facilitate greater creditor flexibility and expanded availability of responsible, affordable credit options for some struggling consumers” by keeping both the old and new rule until October 1, 2022.

Any comments in response to the NPRM must be received by the CFPB by April 5, 2021. The NPRM proposes that a final rule based on the proposal be effective 60 days after publication in the Federal Register, and noted that it anticipates that this would make the final rule effective before the current July 1, 2021, mandatory compliance date. Until the CFPB finalizes any new rule(s), the final rules issued on December 10, 2020, remain effective.

Updated Compliance Materials. The CFPB also recently updated [its small entity compliance guide](#) on the Ability-to-Repay/Qualified Mortgage Rule and other related compliance materials reflect, among other things, the Revised General QM Rule, Seasoned QM Rule, and GSE Patch Extension Final Rule issued last year.