

Legal and Compliance Report—May 2021¹

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CFPB Finalizes Delay of Mandatory Compliance Date for General QM Rule

Our [last report](#) discussed on the CFPB's notice of proposed rulemaking to delay the mandatory compliance date of the General Qualified Mortgage ("QM") Final Rule. As a follow up to that report, the CFPB recently issued a final rule delaying the mandatory compliance date for the new General QM Final Rule from July 1, 2021 to October 1, 2022 (the "Final Rule"). The Final Rule is effective on June 30, 2021.

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 (APR limitation) thresholds. At the same time, the CFPB issued a seasoned loan QM rule. Both rules became effective on March 1, 2021, but the seasoned loan QM rule did not have any immediate impact due to its 36-month seasoning period. 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 new General QM rule's original mandatory compliance date was July 1, 2021, for applications received on or before June 30, 2021. Until then, creditors could rely on the original General QM rule, the new General QM rule, or the GSE Patch rule (however, the GSE Patch rule would end if Fannie Mae and Freddie Mac exit conservatorship). Among these three QM rules, for applications received on or after July 1, 2020, only the new General QM rule would be available.

The Final Rule. The final rule delays the mandatory compliance date from July 1, 2021 to October 1, 2022. Accordingly, the original General QM rule, new General QM rule, and GSE Patch rule (provided the GSEs do not exit conservatorship) would all be available for applications received on or before September 30, 2022. The CFPB's rationale is that this extension of the mandatory compliance date may help ensure stability and access to affordable, responsible credit in the mortgage market.

Based on other actions, however, the goal of the Final Rule may not be fully realized. In January 2021, the Preferred Stock Purchase Agreements (PSPAs) regarding Fannie Mae and Freddie Mac were

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amended. According to the amendments, Fannie Mae and Freddie Mac can only purchase new General QM rule loans on or after July 1, 2021. It remains uncertain whether the PSPAs will be further amended in light of the Final Rule to continue to provide for the purchase of original General QM rule loans and GSE Patch rule loans after July 1, 2021. In addition, on April 8, 2021, Fannie Mae and Freddie Mac announced that for loans with applications received on or after July 1, 2021, they will purchase new General QM rule loans, and not original General QM rule loans or GSE Patch rule loans.²

Takeaway. For applications received on or after July 1, 2021:

(1) the original General QM rule loans may still be originated, but they will not be eligible for sale to Fannie Mae or Freddie Mac without further amendment to the PSPAs, and

(2) because GSE Patch loans receive QM status based on the loans being eligible for sale to Fannie Mae or Freddie Mac, the GSE Patch rule will no longer be available without further action to amend the PSPAs, or an amendment of the rule by the CFPB.

² On April 8, 2021, Fannie Mae issued Lender Letter 2021-09 and Freddie Mac issued Bulletin 2021-13, to provide for the purchase of new general QM rule loans, and not the original 43% DTI ratio general QM rule loans or GSE Patch QM rule loans, for applications received on or after July 1, 2021.