

Comparison of Section 35(HPML) Regulation; Previous Rules vs. June 1, 2013 and January 18, 2014 CFPB Changes

As of 7/15/13-by Venessa Snell

	HPML (12 CFR §1026.35) Higher-Priced Mortgage Loans Parameters through May 31, 2013	HPML (12 CFR §1026.35) Higher-Priced Mortgage Loans With applications received June 1, 2013
General	A consumer credit transaction secured by the consumer's principal dwelling with an annual percentage rate (APR) that exceeds the APOR by indicated thresholds for a comparable transaction as of the date the interest rate is set.	A closed-end consumer credit transaction secured by the consumer's principal dwelling with annual percentage rate (APR) that exceeds the APOR by indicated thresholds for a comparable transaction as of the date the interest rate is set.
Loan Type	Principal dwelling only - 1st and 2nd liens fixed rate or adjustable rate mortgages including: <ul style="list-style-type: none"> • Closed-end purchase money loan • Refinancing of closed-end purchase money or home equity loan • Closed-end home equity loan 	Principal dwelling only -1st and 2nd liens fixed rate or adjustable rate mortgages including: <p>“ANY Closed-End Consumer Credit Transaction secured by a principal dwelling”</p> <ul style="list-style-type: none"> • Closed-end purchase money loan • Refinancing of closed-end purchase money or home equity loan • Closed-end home equity loan
Exemptions	HPML definitions do not currently include; <ul style="list-style-type: none"> • Construction loans • Temporary or Bridge loans with terms of 12 months or less • Reverse Mortgages • Home Equity Lines of Credit 	HPML definitions will not include; <ul style="list-style-type: none"> • Initial Construction Loans (Borrower Interim) • Temporary or Bridge loans with terms of 12 months or less* • Home Equity Lines of Credit (open-end) • Reverse mortgages • Non-owner occupied transactions
Thresholds	Thresholds based on average prime offer rate (APOR) as published via the FFIEC's rate spread calculator on website www.ffiec.gov/ratespread/newcalc.aspx : Final APR that exceed the APOR as of the final interest rate lock by at least <ul style="list-style-type: none"> • 1.5 percentage points for first-lien loans or • 2.5 or more percentage points for loans which exceed Agency maximum loan limits (jumbo) • 3.5 percentage points for subordinate-lien loans. <p>Note: Same rate spread calculation used for HMDA purposes as of January 1, 2010.</p>	Thresholds based on average prime offer rate (APOR) as published via the FFIEC's rate spread calculator on website www.ffiec.gov/ratespread/newcalc.aspx : Final APR that exceed the APOR as of the final interest rate lock by at least <ul style="list-style-type: none"> • 1.5 percentage points or more for first-lien loans; or • 2.5 or more percentage points for loans which exceed Agency maximum loan limits (jumbo) • 3.5 percentage points or more for subordinate-lien loans. <ul style="list-style-type: none"> • Note: Section 35 does not have a higher threshold for Small Creditors. Please see HPCT thresholds for “Small Creditors” in §1026.43.

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Disclosure	No separate additional disclosures required.	No separate additional disclosures required; other then as required by Reg. B 1002.14(a)(2)- Borrowers Right to Receive Appraisal -A creditor shall mail or deliver a copy of the appraisal report promptly (generally within 30 days) after the creditor receives an applicant's request.
Underwriting	<p>May not rely on the collateral securing the loan without regard to consumer's ability to repay. Lender may consider current and reasonably expected income, employment, assets other than collateral, current obligations and mortgage-related obligations.</p> <p>Mortgage related obligations include; but are not limited to, property taxes, insurance premiums including PMI, HOA or condo fees, secondary mortgage payments taken at or before closing in addition to this transaction's mortgage payment.</p>	<p>May not rely on the collateral securing the loan without regard to consumer's ability to repay. Lender must consider borrower's current and reasonably expected income, employment, assets other than collateral, current obligations and mortgage-related obligations.</p> <p>Mortgage related obligations include; but are not limited to, property taxes, insurance premiums including PMI, HOA or condo fees, secondary mortgage payments taken at or before closing in addition to this transaction's mortgage payment.</p>
Escrows	<p>May not fail to escrow for property taxes and mortgage-related insurance for a minimum of ONE YEAR (including insurance against loss of or damage to property, protecting mortgage lender against default or other credit loss, and flood insurance) when the high priced mortgage loan is secured by a first lien.</p> <p>Escrows requirements effective:</p> <ul style="list-style-type: none"> • April 1, 2010 for site-built homes • October 1, 2010 for manufactured homes 	<p>May not fail to escrow for property taxes and mortgage-related insurance for a minimum of FIVE YEARS (including insurance against loss of or damage to property, protecting mortgage lender against default or other credit loss, and flood insurance) when the high priced mortgage loan is secured by a <u>first lien</u>.</p> <p>Escrows requirements effective:</p> <ul style="list-style-type: none"> • June 1, 2013 <p>Exemptions to Escrow Rule Requirement:</p> <ul style="list-style-type: none"> • Loans originated by creditor or affiliates whom meets "Rural or Underserved" definitions. <p><u>However, they are still considered HPML loans and must follow all other HPML rules and requirements, if threshold is exceeded.</u></p> <p>Notwithstanding the 5 year mark and borrower's hand written request to cancel, escrow accounts may not be canceled unless the unpaid principal balance is less than 80% of original value of the property securing underlying debt obligation; and the consumer is not delinquent or in default.</p>

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<p>Prohibition</p>	<p>May not impose a prepayment penalty at any time if any of the following is true:</p> <ul style="list-style-type: none"> • Other applicable law prohibits such penalty; • The consumer’s principal and/or interest mortgage payment can change during the first 4 years of the loan term (i.e., adjustable rate mortgage with first change during first 4 years); or • The source of the prepayment funds is a refinancing by the same mortgage lender or an affiliate. <p>Note: Prepayment penalty would be allowed on a 5-year ARM, but not on a 3-year or 4-year ARM. However, if loan allows negative amortization and lender has right to accelerate payment reset date at times such as when a higher principal balance outstanding caused by the negative amortization meets a contractually set threshold.</p>	<p>** 1026.35(e) May not impose a prepayment penalty at any time if any of the following is true:</p> <ul style="list-style-type: none"> • Other applicable law prohibits such penalty; • The penalty will apply after the two year period following consummation. • The consumer’s principal and/or interest mortgage payment can change during the first 4 years of the loan term (i.e., adjustable rate mortgage with first change during first 4 years); or • The source of the prepayment funds is a refinancing by the same mortgage lender or an affiliate. <p>** Will sunset January 9, 2014. Prepayment penalty restrictions have been restructured in §1026.43, and in newly established Ability to Repay (ATR) requirements; With specified restrictions that most HPML loans must follow effective January 10, 2014;</p>
<p>Prohibition</p>	<p>May not structure a home-secured loan as an open-end plan to evade Regulation Z’s HPML provisions.</p>	<p>May not structure a home-secured loan as an open-end plan to evade Regulation Z’s HPML provisions.</p>

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Appraisal	None	<p>Effective January 18, 2014: Appraisal Requirements Exemptions;</p> <ul style="list-style-type: none"> • A QM as defined in 1026.43(e); • Transaction secured by a new manufactured home (chattel); • A transaction secured by a mobile home, boat or trailer, without land; • A transaction for the initial construction of a dwelling ; • Certain “streamlined” refinances; • A bridge loan of 12 months or less; • A reverse-mortgage transaction; or • A transaction of \$25,000 or less. <p>A full appraisal must be obtained on any loan meeting HPML requirements; including a physical inspection of the interior of the property.</p> <p>The creditor shall not extend an HPML without obtaining an additional appraisal at no cost to the borrower if;</p> <ul style="list-style-type: none"> • The seller obtained the property 90 days or less prior to the date of purchase agreement, and the sales price exceeds seller’s acquisition cost by 10% • The seller obtained the property 90-180 days prior to the date of purchase agreement, and the sales price exceeds seller’s acquisition cost by 20% <p>Exceptions to additional appraisal requirement include ones where the seller is;</p> <ul style="list-style-type: none"> • A local, State or Federal government agency; • A person who acquired title through foreclosure,, deed-in-lieu • A non-profit entity as part of a local, State or Federal program. • A person whom acquired title by inheritance or court order. • An employer or relocation agency in connection with relocation of employee; • A service member who received a deployment; or permanent change of station; or property is located in • A federal disaster area as designated by the President; or • Located in a rural county as defined in 1026.35(b)(2)(iv)(A)