Small Creditor Qualified Mortgages

Small Creditor Qualification

Did your institution have:

Assets below $2 billion at the end of the last calendar year?

[§ 1026.43(e)(5)(i)(D), (e)(6)(i)(B), (f)(1)(vi)(C)]

AND

Did you and your affiliates:

Originate 500 or fewer first-lien, closed-end residential mortgages that are subject to ATR requirements in the last calendar year?

[§ 1026.43(e)(5)(i)(D), (e)(6)(i)(B), (f)(1)(vi)(B)]

YES

NO

NO

Not Eligible to Originate Balloon-Payment QMs and/or Small Creditor QMs;

Eligible to Originate General Definition QMs [§ 1026.43(e)(2)] and/or Temporary Definition QMs [§ 1026.43(e)(4)]

Loan Features

Does the loan have ANY of the following characteristics?:

(1) negative amortization;

OR

(2) interest-only features;

OR

(3) a loan term of more than 30 years.

[§ 1026.43(e)(2)(i)-(ii), (e)(5)(i)(A), (f)(1)(i)]

YES

STOP = Non-QM

NO

NO

Does the loan include a balloon payment?

YES

Balloon Payment Features

Balloon-Payment QM Special Features: Does the loan have ALL of the following characteristics?:**

(1) loan term of 5 years or longer? [§ 1026.43(f)(1)(iv)(C)];

AND

(2) an interest rate that does not increase? [§ 1026.43(f)(1)(iv)(B)];

AND

(3) substantially equal payments calculated using an amortization period of 30 years or less? [§1026.43(f)(1)(iv)(A)];

AND

(4) per your determination, the consumer is able to make the scheduled periodic payments (including mortgage-related obligations) other than the balloon payment? [§ 1026.43(f)(1)(ii)]

NO

STOP = Non-QM

YES

Potential Small Creditor QM

Potential Balloon-Payment QM

**An additional question is required AFTER January 10, 2016:

Were over 50% of your organization's first-lien covered transactions in the prior year secured by properties in rural or underserved areas? [§§ 1026.43(e)(6), (f)(1)(vi), 35(b)(2)(iii)(A)]

Rural and underserved areas (explained):
- Rural areas (equivalent to the USDA's Economic Research Service Urban Influence Codes 4, 6, 7, 8, 9, 10, 11, or 12); OR
- Underserved areas (counties where no more than two creditors extend five or more first-lien covered transactions in a calendar year).

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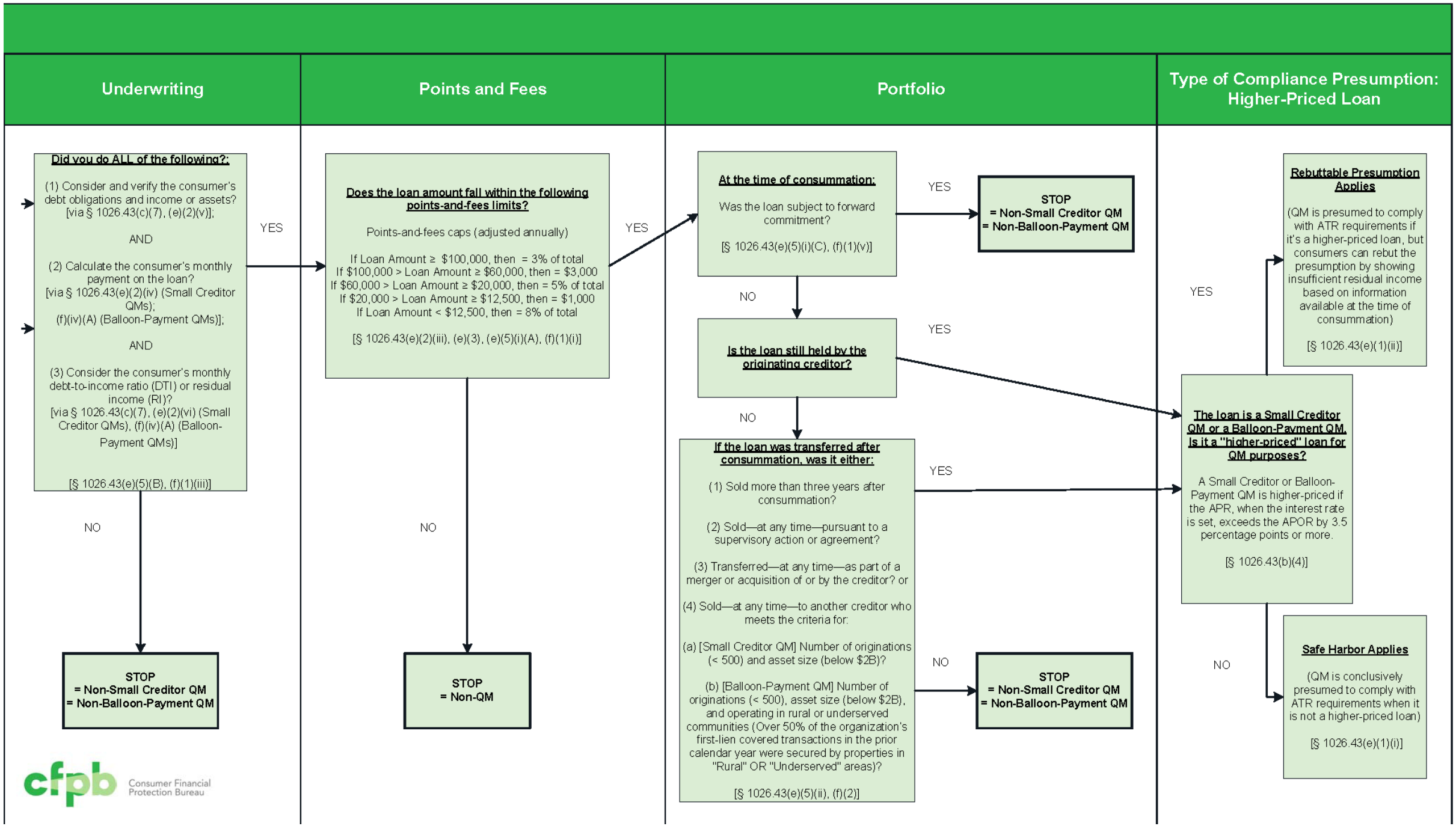
Underwriting
Points and Fees
Portfolio
Type of Compliance Presumption: Higher-Priced Loan
Did you do ALL of the following?:
(1) Consider and verify the consumer's debt obligations and income or assets? [via § 1026.43(c)(7), (e)(2)(v)];
AND
(2) Calculate the consumer's monthly payment on the loan? [via § 1026.43(e)(2)(iv) (Small Creditor QMs); (f)(iv)(A) (Balloon-Payment QMs)];
AND
(3) Consider the consumer's monthly debt-to-income ratio (DTI) or residual income (RI)? [via § 1026.43(c)(7), (e)(2)(vi) (Small Creditor QMs), (f)(iv)(A) (Balloon-Payment QMs)]
[§ 1026.43(e)(5)(B), (f)(1)(iii)]
YES
NO
STOP
= Non-Small Creditor QM
= Non-Balloon-Payment QM
Does the loan amount fall within the following points-and-fees limits?
Points-and-fees caps (adjusted annually)
If Loan Amount ≥ $100,000, then = 3% of total
If $100,000 > Loan Amount ≥ $60,000, then = $3,000
If $60,000 > Loan Amount ≥ $20,000, then = 5% of total
If $20,000 > Loan Amount ≥ $12,500, then = $1,000
If Loan Amount < $12,500, then = 8% of total
[§ 1026.43(e)(2)(iii), (e)(3), (e)(5)(i)(A), (f)(1)(i)]
YES
NO
STOP
= Non-QM
At the time of consummation:
Was the loan subject to forward commitment?
[§ 1026.43(e)(5)(i)(C), (f)(1)(v)]
YES
STOP
= Non-Small Creditor QM
= Non-Balloon-Payment QM
NO
Is the loan still held by the originating creditor?
YES
NO
If the loan was transferred after consummation, was it either:
(1) Sold more than three years after consummation?
(2) Sold—at any time—pursuant to a supervisory action or agreement?
(3) Transferred—at any time—as part of a merger or acquisition of or by the creditor? or
(4) Sold—at any time—to another creditor who meets the criteria for:
(a) [Small Creditor QM] Number of originations (< 500) and asset size (below $2B)?
(b) [Balloon-Payment QM] Number of originations (< 500), asset size (below $2B), and operating in rural or underserved communities (Over 50% of the organization's first-lien covered transactions in the prior calendar year were secured by properties in "Rural" OR "Underserved" areas)?
[§ 1026.43(e)(5)(ii), (f)(2)]
YES
NO
STOP
= Non-Small Creditor QM
= Non-Balloon-Payment QM
The loan is a Small Creditor QM or a Balloon-Payment QM. Is it a "higher-priced" loan for QM purposes?
A Small Creditor or Balloon-Payment QM is higher-priced if the APR, when the interest rate is set, exceeds the APOR by 3.5 percentage points or more.
[§ 1026.43(b)(4)]
YES
Rebuttable Presumption Applies
(QM is presumed to comply with ATR requirements if it's a higher-priced loan, but consumers can rebut the presumption by showing insufficient residual income based on information available at the time of consummation)
[§ 1026.43(e)(1)(ii)]
NO
Safe Harbor Applies
(QM is conclusively presumed to comply with ATR requirements when it is not a higher-priced loan)
[§ 1026.43(e)(1)(i)]
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