KINECTA
FEDERAL CREDIT UNION

Ability to Repay/Qualified Mortgages FAQ

The Ability to Repay (ATR)/Qualified Mortgages (QM) provisions of the Dodd-Frank Wall Street Reform and Consumer Protection Act require lenders to make a reasonable, good faith determination of a borrower's ability to repay before funding a mortgage loan. For more information on ATR/QM, see:

- Fannie Mae website
- Consumer Financial Protection Bureau (CFBP) website

Which transactions are covered and excluded?

Covered transactions	Excluded transactions
• First liens • Fixed Seconds • Refinances	• Home Equity Line of Credit loans (HELOCs) • Interest-only (QM) • Transactions secured by interest in a timeshare • Reverse mortgages • Bridge or construction loans with terms of 12 months or less

Which Kinecta programs were retired as a result of ATR/QM?

- 40 year terms for Agency Standard Fixed Rate loan programs (including DU Refi Plus, Refi Plus and HomePath)
- Interest Only on all Adjustable Rate Mortgage (ARM) products (excluding HELOCs)
- Jumbo loans over 43% Debt-to-Income (DTI)
- Loan-to-Value (LTV)/Combined LTV (CLTV)/High CLTV (HCLTV) ratios > 95%

What are the QM maximum points and fees? [2015 annual adjustment]

For this loan amount …	Points and fees cannot exceed…
~~$100,000~~ $101,953 and greater	3% of total loan amount
~~$60,000~~ $61,172 to ~~$99,999~~ $101,952	~~$3,000~~ $3,059
~~$20,000~~ $20,391 to ~~$59,999~~ $61,171	5% of total loan amount
~~$12,500~~ $12,744 to ~~$19,999~~ $20,390	~~$1,000~~ $1,020
< ~~12,500~~ $12,744	8% of total loan amount

Maximum points and fees also apply to Government Fixed Rate loans.

The Kinecta minimum loan amount is $25,000 for all products except Fixed Seconds (Retail and Wholesale), which is ~~$5,000~~ $10,000.

What is included in QM points and fees?

Item	Notes
Items included in the finance charge	For example: • Admin fee • Mortgage Insurance Premium (MIP) (Wholesale) • Discount for rate (Retail) For exceptions, see the next question.
Compensation paid to broker	Borrower-Paid or Lender-Paid
Real-estate-related fees paid to an affiliate of the broker (see the question "What is a definition of an affiliate?")	Include any fees charged by an affiliate, including fees for: • Title examination, abstract of title, title insurance, property survey, messenger, wire fees, administration fees, and similar • Preparing deeds, mortgages, and reconveyance or settlement documents • Notary and credit report • Property appraisal or inspections • Escrow/settlement Kinecta uses outside appraisers and Appraisal Management Companies (AMCs) (no affiliate arrangement).
• Prepayment penalties • Credit insurance premiums	Kinecta does not charge these fees.
Amount of upfront Private Mortgage Insurance (PMI) premium that exceeds FHA premium	The entire upfront premium is included if it is not refundable on a prorated basis, or if the refund is not automatically issued upon loan satisfaction.
LLPAs	Only if they appear as a separate charge line on the HUD-1.
Borrower-paid compensation	Compensation paid by a borrower to a mortgage broker is included in points and fees, even if paid by a third party.
Any fees credited by the realtor (affiliate or non-affiliate)	If a third party is paying any fees required to be included in QM points and fees, those fees must still be included.
Seller points/charges	Include charges paid by the seller if they pay for any items required to be included in QM points and fees, outside of finance charges, such as compensation and any applicable real-estate related fees.
Savings Advantage 1.75% MI paid by the borrower	• This is not considered additional MI because LPMI does not appear on the GFE or HUD-1. • This is an LLPA that results in a discount.

What is excluded from QM points and fees?

Item	Notes
Per diem interest	
Bona fide third party charge not retained by the broker or the lender, or an affiliate of the broker or lender (see the question "What is a definition of an affiliate?")	These fees are excluded only if not paid to an affiliate: • Tax service • Flood certification • Title examination, abstract of title, title insurance, property survey, title courier fee, title notary fee • Preparing deeds, mortgages, and reconveyance or settlement documents • Notary and credit report • Property appraisal or inspections, including recertifications • Escrow/settlement • Contract processing fees, if the fee is reasonable and not retained by the loan originator or an affiliate • Prepaid interest
Realtor commissions (affiliate or non-affiliate)	Commissions do not fit the regulatory definition of real-estate-related fees, and aren't a cost of obtaining the loan.
Federal or State guaranty or insurance premiums (FHA)	Any premium payable to HUD.
Post-closing PMI	• Exclude the premium if: o It does not exceed FHA MIP (currently 1.75%). o It is refundable on a pro rata basis. o The refund is automatically issued upon loan satisfaction. • Exclude the up-front PMI premium if: o It is refundable on a prorated basis. o A refund is automatically issued upon loan satisfaction. • Exclude the single-paid MI premium if the purchase contract specifies that the seller is paying for that fee.
Discount points	• Up to 2 bona fide discount points, where the undiscounted rate does not exceed the APOR by more than 1% • Up to 1 bona fide discount point if the undiscounted rate does not exceed the APOR by more than 2%
Seller points/charges	Exclude seller points/charges if the purchase contract specifies the seller is paying for those fees.
Savings Advantage LPMI	Savings Advantage LPMI: • Is included in the pricing adjustment (it is not an additional fee) • Does not appear on the GFE or HUD-1.

What if total points and fees for a loan exceed QM loan limits?

(Wholesale only) If total points and fees for a loan exceed the limits established for qualified mortgages, the broker may use the admin fee Loan Level Price Adjustment (LLPA). The formula is:

Admin fee ÷ loan amount X 100

For example:

$895 ÷ $200,000 = .4475

The broker may use the admin fee LLPA if the loan is not locked. If the loan is locked, the broker may not use the admin fee LLPA until the current lock expires.

A Wholesale Mortgage Loan Operations Director must approve using the admin fee LLPA. After approval, Wholesale Mortgage Loan Operations must redisclose the loan.

Will the APOR be posted on the rate sheet?

No. The APOR is different depending on whether or not the loan is a fixed or an ARM, and on the loan term, so there are multiple APOR values. You can use this site to determine the APOR based on the rate lock date. If the loan is floating, look at the latest date:
http://www.ffiec.gov/ratespread/aportables.htm

Is Kinecta eliminating flat fees?

Kinecta is not eliminating flat fees.

The broker can charge a flat fee, and can also put a ceiling and floor in place.

Brokers are responsible for complying with QM, and they should adjust their LO comp plan accordingly to remain in compliance.

What is the definition of an affiliate?

An affiliate is any company that controls, is controlled by, or is under common control with another company.

Control of another company means:

- 25% ownership, control, or power to vote
- Control over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the other company
- Influence, directly or indirectly, over the management or policies of the other company

A company controls voting securities or assets owned, controlled, or held, directly or indirectly:

- By any subsidiary of the company
- In a fiduciary capacity for the benefit of:
    - Shareholders
    - Members
    - Employees

- The other company or any of its subsidiaries

Under no circumstances may the broker loan officer also be the listing and/or selling agent.

Must outside contract processors be licensed to invoice escrow directly?

Yes. The rules have not changed.

What other checks must Kinecta perform to conform to Dodd-Frank?

Kinecta must verify the NMLS names and IDs on the 1003, Note, and Deed of Trust/Mortgage.

Channel	NMLS Name and ID	Document
Correspondent	• Correspondent company • Loan originator	• 1003 • Note • Deed of Trust/Mortgage
Wholesale	• Broker • Broker company	• 1003 • Note • Deed of Trust/Mortgage

(Wholesale only) If Kinecta discovers prior to funding that the loan originator (interviewer) on the initial signed 1003 is no longer employed by the broker company or does not have an active NMLS ID:

- Kinecta does not need to reissue previously completed documents merely to update a loan originator name and NMLS ID.
- On all subsequent loan documentation, including the final 1003, Kinecta includes the information about the loan originator who now has primary responsibility, and not the information about the loan originator who formerly had primary responsibility.
- A new initial 1003 is required only if the loan originator did not have a valid NMLS ID number at time of application.
- The borrower’s acknowledgement is not required if the loan originator’s name or NMLS ID changes.

What high cost tests do loans have to pass?

Mortgages must now pass these updated high cost tests:

Test	Description	
Fannie Mae/Freddie Mac	Follows same points and fees as for Ability-to-Repay (ATR)/Qualified Mortgages (QM).	
Section 32 (Home Ownership and Equity Protection Act (HOEPA))	APR	The APR exceeds Annual Percentage Offer Rate (APOR) for a comparable transaction by more than: • 6.5%for first lien transactions, other than described in the next bullet • 8.5% for a first lien transaction if the dwelling is personal property and the loan amount is less than $50,000 • 8.5% for a subordinate lien transaction
	Total points and fees [2015 adjustments]	• ~~5% of total loan amount, for loan amounts > $25,000~~ • 5% of total loan amount, for loan amounts ≥ $20,391 • The lesser of 8% of total loan amount or $1,020, for loan amounts < $20,391

Can brokers reduce compensation on a loan?

(Wholesale only) In the event of an unforeseen circumstance, a loan originator can reduce compensation if an increase in actual settlement costs (or omission from the disclosure) occurs, even though the Good Faith Estimate (GFE) the loan originator provided to the borrower was consistent with the best information available at the time of disclosure. For example:

- A title issue with subject property delays closing by one week, which causes the rate lock to expire. The borrower wants to re-lock the interest rate. If the title issue was unforeseen, the loan originator may reduce compensation to pay for all or part of the rate lock extension fee.
- A RESPA (sections 4 and 5(c)) tolerance violation of $70 must be cured. If the violation was unforeseen, the loan originator may reduce compensation to cure the tolerance violation.

Unforeseen circumstances do not include instances where:

- A loan originator routinely underestimates settlement costs on the initial disclosure. The increase in actual settlement costs would be expected.
- A loan originator makes an honest mistake in disclosing settlement costs and wants to cover certain transaction costs for the borrower, even if no loan terms change.

A Wholesale Mortgage Loan Operations Director must approve reducing compensation. After approval, the Loan Setup Specialist must:

- Redisclose the loan.
- Document the unforeseen circumstances and the amount the compensation was reduced in Destiny. This documentation must be maintained for a minimum of three years.

What is the difference between QM loans and FHA QM loans?

QM loans	FHA QM loans
Points and fees do not exceed 3% of the total loan amount for mortgages $100,000 and above, with adjustments for smaller loan amounts.	Limit upfront points and fees to no more than 3% of the loan amount for mortgages $100,000 and above, with adjustments for smaller loan amounts.
DTI ≤ 43% or per DU Eligible	DTI ≤ 43% or FHA Scorecard Accept.
Term not to exceed 30 years	
The Annual Percentage Rate (APR) on the transaction is less than 1.5% above the APOR (safe harbor).	APR does not exceed the APOR for a comparable mortgage by more than the combined percentage of the annual Mortgage Insurance Premium (MIP) and 1.15 percentage points (safe harbor).
Loan with regular, periodic payments that are equal amounts, except for any interest change for ARMs or step-rate mortgages that do not: • Result in an increase in the principle balance • Allow the borrower to defer repayment of the principle balance • Result in a balloon payment	Periodic payments without risky features.

Will LoanKinection be updated to help determine if the loan is QM qualified?

There are no current plans to provide a QM points and fees calculator, or include any other upgrades to support QM.

Does the Asset Utilization Jumbo ARM program conform to ATR/QM?

The current matrix changes the DTI to 43% maximum to conform to ATR/QM.

What is the impact of ATR/QM to the pipeline?

- The ATR/QM rule is effective:
  - January 10, 2014 for all new Retail loan applications.
  - For all new TPO loan applications Kinecta receives January 10, 2014 or later.
- Main provisions of the Loan Officer Compensation rule are effective January 1, 2014 for all new loan applications

If a pre-approval application is taken prior to January 10, does it have to adhere to ATR/QM guidelines?

A pre-approval application is not a completed application, so unless it becomes an application prior to January 10, it must adhere to ATR/QM guidelines.

Glossary

Term	Definition
Ability-to-Repay	At minimum, the following underwriting factors must be considered: • Continuity of income • Reserves and assets • Current and previous employment status • Monthly payment on the subject transaction • Monthly payment on any simultaneous loan • Monthly payment(s) for mortgage obligations • Current debt obligations, including alimony or child support • DTI and residual income • Credit history
Affiliate	Any company that controls, is controlled by, or is under common control with another company.
APOR	Average Prime Offer Rate
Bona fide discount points	An amount paid by the borrower that reduces the interest rate for the transaction in a manner that is consistent with established industry practice.
Points and fees	Charges known at or before closing
Qualified Mortgage (QM)	A home loan that meets certain standards set forth by the federal government. Lenders that generate such loans will be presumed to have also met the Ability-to-Repay rule mandated by the Dodd-Frank Act.
Safe harbor	Loans with APRs less than 1.5 percentage points (or 150 basis points) over the APOR. (The APOR is determined weekly and relates to Freddie Mac's survey.) A safe harbor loan is harder for the borrower to challenge in court because the lender is conclusively considered as having fulfilled the Ability-to-Repay rule.
Temporary QM	An agency-eligible or government insured or guaranteed loan that meets underwriting and documentation standards, to remain in place until the government agencies write their own QM rules, the GSE conservatorships end, or a period of seven years.
Total loan amount	Amount financed from the Truth-in-Lending statement minus any points and fees included in the loan amount.