

# RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

September 2020

## Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition

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August 28, 2020

- With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for "qualified mortgages" (QMs) obtain certain protections from liability. Regulation Z contains several categories of QMs, including the General QM category and a temporary category (Temporary GSE QM loans) of loans that are eligible for purchase or guarantee by government-sponsored enterprises (GSEs) while they are operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA). The Bureau of Consumer Financial Protection (Bureau) is issuing this proposal to create a new category of QMs (Seasoned QMs) for first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period, are held in portfolio until the end of the seasoning period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements. The Bureau's primary objective with this proposal is to ensure access to responsible, affordable mortgage credit by adding a Seasoned QM definition to the existing QM definitions.
- Comments Due By: September 28, 2020

### [Additional Information](#)

## Bureau of Consumer Financial Protection Proposed Rule and Request for Information Regarding CARD Act Rules Pursuant to the Regulatory Flexibility Act and Consumer Credit Card Market

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August 28, 2020

- The Bureau of Consumer Protection (Bureau) is s comment on two related, but separate, reviews. First, the Bureau is conducting a review of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) Rules. As part of this review, the Bureau is seeking comment on the economic impact of the CARD Act Rules on small entities so that it can determine whether the rules should be continued without change, or should be amended or rescinded, consistent with the stated objectives of applicable statutes, to minimize any significant economic impact of the rules upon a substantial number of such small entities. Second, the Bureau is conducting a review of the consumer credit card market, within the limits of its existing resources available for reporting purposes, pursuant to the CARD Act, and is seeking comment on a number of aspects of the consumer credit card market.
- Comments Due By: October 27, 2020

### [Additional Information](#)

## Agencies Extend Comment Period on Proposed Revisions to Interagency Questions and Answers Regarding Flood Insurance

September 1, 2020

- On July 6, 2020, the OCC, Board, FDIC, FCA and NCUA (collectively, the Agencies) published in the *Federal Register* a notice soliciting comments on a proposal to reorganize, revise and expand the Interagency Questions and Answers Regarding Flood Insurance (July 2020 Proposed Questions and Answers). The July 2020 Proposed Questions and Answers provided for a comment period ending on September 4, 2020. The Agencies have determined that an extension of the comment period until November 3, 2020, is appropriate. This action will allow interested parties additional time to analyze the proposal and prepare and submit comments.
- **DATES:** The comment period for the proposed revisions to the Interagency Flood Questions and Answers, published on July 6, 2020 (85 FR 40442), is extended from September 4, 2020 to November 3, 2020.

### [Additional Information](#)

## Federal Trade Commission (FTC) seeks comments on proposed changes to FCRA rules

August 31, 2020

- The Federal Trade Commission is seeking comment on proposed changes that would bring several rules implementing parts of the Fair Credit Reporting Act (FCRA) in line with the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).
- In separate Notices of Proposed Rule Making (NPRMs), which will be published in the Federal Register shortly, the FTC proposed changes that would clarify that five FCRA rules promulgated by the FTC apply only to motor vehicle dealers. The Dodd-Frank Act, enacted in 2010, transferred rulemaking authority related to parts of the FCRA to the Consumer Financial Protection Bureau, narrowing the FTC's FCRA rulemaking authority for these rules.
- The NPRMs propose changes to the following rules:
  - [Address Discrepancy Rule](#), which outlines the obligations of users of consumer reports when they receive a notice of address discrepancy from a nationwide consumer reporting agency (CRA);

## Federal Trade Commission (FTC) seeks comments on proposed changes to FCRA rules - continued

August 31, 2020

- [Affiliate Marketing Rule](#), which gives consumers the right to restrict a person from using certain information obtained from an affiliate to make solicitations to the consumer;
- [Furnisher Rule](#), which requires entities that furnish information to CRAs to establish and implement reasonable written policies and procedures regarding the accuracy and integrity of the information relating to consumers provided to a CRA;
- [Pre-screen Opt-Out Notice Rule](#), which outlines requirements for those who use consumer report information to make unsolicited credit or insurance offers to consumers; and
- [Risk-Based Pricing Rule](#), which requires those who use information from a consumer report to offer less favorable terms to consumers to provide them with a notice about the use of such data.

### [Additional Information](#)

## Joint Statement on Enforcement of Bank Secrecy Act/Anti-Money Laundering Requirements

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August 13, 2020

- The FDIC, along with the Board of Governors of the Federal Reserve System, the National Credit Union Administration, and the Office of the Comptroller of the Currency, is issuing an updated joint statement on enforcement of Bank Secrecy Act/Anti-Money Laundering (BSA/AML) requirements. The joint statement does not create new expectations or standards, but describes circumstances in which an agency will issue a mandatory cease and desist order under section 8(s) of the Federal Deposit Insurance Act to address noncompliance with BSA/AML requirements.

[Additional Information](#)

## TD Bank Fined for Overdraft and FCRA Violations

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August 20, 2020

- “TD Bank deceptively claimed DCA was a ‘free’ service or benefit or that it was a ‘feature’ or ‘package’ that ‘comes with’ new consumer-checking accounts. In fact, TD Bank charges customers \$35 for each overdraft transaction paid through DCA and DCA is an optional service that does not come with a consumer-checking account.”
- “When TD Bank enrolled some consumers in DCA over the phone, TD Bank deceptively described DCA as covering transactions unlikely to be covered by DCA.”
- “In some instances, TD Bank engaged in abusive acts or practices by materially interfering with consumers’ ability to understand DCA’s terms and conditions.”
- “In some cases, TD Bank: required new customers to sign its overdraft notice with the ‘enrolled’ option pre-checked without mentioning the DCA service to the consumer at all; enrolled new customers in DCA without requesting the customer’s oral enrollment decision; and deliberately obscured, or attempted to obscure, the overdraft notice to prevent a new customer’s review of their pre-marked ‘enrolled’ status in DCA.”

These practices were found to be violations of Regulation E and/or UDAAP.

[Additional Information](#)

## TD Bank Fined for Overdraft and FCRA Violations (continued)

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August 20, 2020

- On 8/20/2020, the CFPB announced a settlement with TD Bank regarding its marketing and sale of its optional overdraft service, referred to by the as Debit Card Advance (DCA). In addition to the issues with their overdraft practices, the CFPB also found that “TD Bank violated FCRA and Regulation V by failing to establish and implement reasonable written policies and procedures concerning the accuracy and integrity of consumer-account information it furnished to two nationwide specialty consumer reporting agencies.” The consent order requires TD Bank to provide an estimated \$97 million in restitution to about 1.42 million consumers and to pay a civil money penalty of \$25 million.
- According to their release, the CFPB states:
- “TD Bank charged consumers overdraft fees for ATM and one-time debit card transactions without obtaining their affirmative consent in violation of EFTA and Regulation E, both after new customers opened checking accounts at TD Bank branches and after new customers opened checking accounts at events held outside of Bank branches.”

## Financial Crimes Enforcement Network (FinCEN), Treasury, Notice and Request for Comments relating to Bank Secrecy Act Regulations Information Collections

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August 13, 2020

- As part of its continuing effort to reduce paperwork and respondent burden, FinCEN invites comments on the proposed renewal, without change, of currently approved information collections found in existing Bank Secrecy Act regulations requiring banks, savings associations, credit unions, certain non-federally regulated banks, brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities, to develop and implement customer identification programs designed to allow the financial institution to form a reasonable belief it knows the true identity of each customer. Although no changes are proposed to the information collections themselves, this request covers a future expansion of the scope of the annual burden and cost estimates associated with these regulations. This request for comments is made pursuant to the Paperwork Reduction Act of 1995.
- Comments due by October 13, 2020.

### [Additional Information](#)

Effective Date	Implementing Rule/Regulation	Additional Details
April 1, 2019	Prepaid Rule	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> <li>• <a href="#">Compliance Guide</a></li> </ul>
July 1, 2019	Mandatory acceptance of certain private flood insurance	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 12, 2019	Reg D – Reserve Requirements of Depository Institutions	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 12, 2019	Reg A – Extensions of Credit by Federal Reserve Banks	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 19, 2019	Small Business Size Standards	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
September 20, 2019	Assessment of Fees	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 1, 2019	Regulatory Capital Rule	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 1, 2019	Recordkeeping for Timely Deposit Insurance Determination	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 9, 2019	OCC, Federal Reserve System and FDIC Rule on Real Estate Appraisals	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 22, 2019	NCUA Rule on Real Estate Appraisals	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
December 2, 2019	NCUA Payday Alternative Loans	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>

# COMPLIANCE CALENDAR >

Effective Date	Implementing Rule/Regulation	Additional Details
December 28, 2019	Taxpayer First Act	• <a href="#">Rule</a>
January 1, 2020	Simplify “Volcker Rule”	• <a href="#">Rule</a>
January 1, 2020	CRA Asset Size Adjustment for Small and Intermediate Small Institutions	• <a href="#">Rule</a>
January 1, 2020	HMDA Adjustment to Asset Size Exemption Threshold	• <a href="#">Rule</a>
July 1, 2020	Final Amendments to Reg. CC Funds Availability	• <a href="#">Rule</a>
November 1, 2020	New URLA Required Use – POSTPONED DUE TO COVID-19	• <a href="#">Issuance</a>
November 19, 2020	Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date	• <a href="#">Issuance</a>
January 1, 2021	Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA and Qualified Mortgages)	• <a href="#">Rule</a>
March 1, 2021	New URLA Required Use	• <a href="#">Issuance</a>
January 1, 2022	Reg C Final rule establishing 200 loans as the permanent HMDA data reporting threshold for open-end lines of credit	• <a href="#">Rule</a>



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