HPC
HOUSING POLICY COUNCIL

HPC ATR / QM Proposal

Remove:	**Retain:**
43 DTI and associated Appendix Q	ATR regulatory language as-is
GSE Patch	QM defined by statutory product restrictions only
	Safe Harbor designation as-is

Why this Approach Works / Benefits:

- Embraces the statute
- Eliminates only the problematic components of the existing rule
- Fulfills the Administration's intent to allow expiration of the GSE Patch without disruption
- Introduces no new risk elements to the equation
- Enables underwriting innovation outside of the GSE Patch
- Retains access to credit in a manner that is equal to today's arrangement
- Preserves Safe Harbor designation

➢ ***Relies on Existing Regulatory Framework***: The HPC proposal removes the problematic pieces of the regulation and leaves in place the other provisions of the regulation - the QM product restrictions (statutory[i]), the ATR language[ii] as-is, and the existing Safe Harbor measure (protection from legal liability for all QM mortgages with APRs at or less than 150 bps > APOR).

➢ ***Fulfills Statutory Intent of Dodd-Frank***: The HPC proposal reinforces the law, which required satisfaction of ATR for all mortgages; established QM to encourage "safe products" that are presumed to fulfill ATR; and authorized a Safe Harbor, to protect lenders when QM loans are also low credit-risk transactions.

- QM does not <u>excuse</u> a lender from the legal obligation to underwrite the loan in accordance with the ATR components of the statute.
- QM designation serves as an indication that the loan satisfies the legal mandates of ATR.
- The QM product restrictions imply fulfillment of ATR, by prohibiting the problematic features that had been used to qualify borrowers without an assessment of capacity to repay – such as, no-doc / low-doc products, products based only on collateral value, and IO/neg am/Option ARM products.
- QM restrictions are <u>*not*</u> *an alternative to the full underwriting of the borrower*, based on ATR requirements, they are simply an affirmation that the features of the product itself do not allow circumvention of underwriting/ATR.

➢ ***Safe Harbor Protection Preserved for Low-Cost QM Loans****:* The HPC proposal protects the Safe Harbor status, as authorized by the law and included in the existing CFPB regulation. Safe Harbor requires a conclusive "bright-line," objective, pass/fail, yes/no measure.

- HPC proposes to retain the existing, bright-line Safe Harbor measure – QM loans with APRs that are no greater than 150 bps over APOR receive a Safe Harbor designation. (QM loans w/APRs > 150 bps over APOR are subject to rebuttable presumption.)
- The APR/APOR cap is a reflection of credit risk inherent in the loan. The Fed made this case in the 2008 HPML rule.
- The APR/APOR pricing cap has precedent in other Federal banking regulations (HOEPA, HPML, RESPA, etc).

➢ ***Strong Business Rationale***: The HPC proposal, by removing the problematic Patch and 43 DTI/App Q components of the rule, addresses and eliminates the core problems and challenges for the industry with the existing rule, including –
- No DTI measure will make sense on its own; DTI is not intended to be a stand-alone measure; DTI makes sense only when embedded within underwriting, as one of many risk variables;
- Some good loans are <u>not</u> being made - CFPB's assessment of the rule indicated that high quality loans that were ineligible for GSE financing were not being made;
- Appendix Q is insufficient and cannot be fixed – it must set limited, definitive parameters to permit Safe Harbor, an arrangement that directly undercuts innovation
  - referencing "commonly accepted" underwriting standards as a "fix" undercuts an absolute Safe Harbor test, making all loans subject to rebuttable presumption;
  - referencing GSE/government underwriting standards constrains innovation
- Innovation is only possible within the GSE Patch today – only GSE-eligible loans qualify for QM status, so lenders and vendors must drive change and innovation through the GSEs
- Unlevel playing field – the GSE Patch represents another, and perhaps the most significant, special privilege that favors GSE execution
- High quality manufacturing / underwriting - arguments that the removal of the Patch/App Q framework will hasten poor/subprime lending practices fail to recognize the investor-driven protections in private deals; for example, offerings statements present underwriting standards, disclosures provide loan-level risk characteristics, and loan tapes are used to accept/reject loans from pools based on risk variables.

➢ ***Strong Consumer Rationale***: The HPC proposal addresses concerns about the negative consumer impact of removing the GSE Patch, namely:
- Access to credit is preserved; the 3.3 million borrowers with greater than 43 DTI who got GSE-backed loans would still be served under the HPC model;
- DTI caps can never work; at any level, there will be some number of credit-worthy borrowers who should be eligible, based on other risk variables that ought to be considered, so removal of a DTI cap is best for consumers
- Enhanced Risk-Decisioning – without the DTI cap, there is an opportunity for innovative approaches to underwriting that may refine the assessment of creditworthiness

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[i] QM Statute: No negative amortization; no interest-only; no balloon payments; no loan term greater than 30-year; points and fees do not exceed 3% of total loan amount (with exceptions); income and financial resources relied upon to qualify the borrowers are verified and documented; underwriting based on max interest rate that may apply after 5 years; uses fully amortizing payment schedule; accounts for mortgage-related obligations.

[ii] ATR: No creditor may make a residential mortgage loan unless the creditor makes a reasonable and good faith determination based on verified and documented information that, at the time the loan is consummated, the consumer has a reasonable ability to repay the loan, according to its terms, and all applicable taxes, insurance, and assessments. Basis for determination: An ATR determination must include consideration of the consumer's: credit history; current income; expected income; current obligations; debt-to-income ratio or the residual income the consumer will have after paying non-mortgage debt and mortgage-related obligations; employment status; and other financial resources other than the consumer's equity in the dwelling