

Key Points of Reg Z HPML and HOEPA/HCML Loan Regulations

by Patti Blenden

Common ground for many questions continues to focus on the similarities and differences between HPML and HOEPA/HCML loans after our intense TRID focus. There are so many special categories and provisions today that it pays to update your quick reference

tools and audit guides to ensure we are not overlooking the nuances of two very important regulations. These two protected categories offer many mandated prohibitions and restrictions of loan terms. Both categories prohibit creditor reliance on collateral securing the loan without

regard to the customer's ability to repay. It's a lot to keep straight! Use this quick reference chart to help you keep the major provisions in compliance! Be sure to check the regulations for additional requirements for each of the categories.

	Higher-Priced Mortgage Loans (HPML) Section 35 12 CFR §1026.35	High Cost Mortgage Loans (HCML) Section 32 12 CFR §1026.32
Loan Types	<p>Closed-end consumer mortgages secured by the principal dwelling that meet the Coverage criteria listed below including:</p> <ul style="list-style-type: none"> • 1st and 2nd lien; • Purchase; • Refinance of covered loan; and • Home equity loans. <p>NOTE: A loan should not be structured as open-end to avoid Higher-Priced Mortgage Loan Status.</p>	<p>Closed-end and open-end consumer mortgages secured by the principal dwelling, that meet the Coverage* criteria listed below including:</p> <ul style="list-style-type: none"> • 1st and 2nd liens; • Purchase; • Refinance of covered loan; • Home improvement loan; • Home Equity Line of Credit (HELOC); • Bridge loan to obtain principal dwelling; and • Temporary loans.
Exempt Transactions	<ul style="list-style-type: none"> • Initial construction loans; • Reverse mortgages; • Temporary or bridge loans (term ≤12 months); • HELOC (open end); and • Vacation or second homes. 	<ul style="list-style-type: none"> • Initial construction loans; • Reverse Mortgages; • Housing Finance Agency loans; • USDA Rural Housing §502 Direct Loan Program; and • Vacation or second homes.
Coverage	<p>Loans are considered HPML when the Annual Percentage Rate (APR) exceeds the Average Prime Offer Rate (APOR) by:</p> <ul style="list-style-type: none"> • 1.5% or more for 1st lien non-jumbo loans; or • 3.5% or more for Subordinate-liens; or • 2.5% or more for jumbo loans <p>No prepayment penalty test.</p>	<p>Loans are considered HOEPA Loans when one or more of the following three test triggers is met:</p> <p>Test 1. APR exceeds the APOR:</p> <ul style="list-style-type: none"> • 6.5% points for 1st lien; or • 8.5% points for 1st liens if personal property and less than \$50,000; or • 8.5% points for subordinate lien. <p>Test 2. Total points and fees exceed (annually adjust):</p> <ul style="list-style-type: none"> • For loans less than \$20,350, 8% of the loan amount or \$1,017.00, whichever is less; or • For loans ≥ \$20,350, 5% of the loan amount. <p>Test 3. Prepayment penalty fee imposed if more than:</p> <ul style="list-style-type: none"> • 36 months after consummation or account opening; or • 2% of the amount prepaid.
Prohibitions and Restrictions	<ul style="list-style-type: none"> • Negative amortization or interest only payments; • Balloon payments; • Terms over 30 years; and • Imposing a penalty at any time which exceeds: <ul style="list-style-type: none"> • More than 36 months after consummation or account opening; or • In an amount more than 2% of the amount prepaid 	<ul style="list-style-type: none"> • Negative amortization or balloon payments for non-QMs; • Charging a fee to modify or amend; • Charging a fee for payoff statements; • Exceeding 4% for late fees; • Collecting more than two payments from the loan proceeds; • Financing the points and fees; • Increasing the interest rate upon default; • Charging a prepayment penalty at any time if the loan violates any of the HOEPA rules; • Refinancing the loan within 12 months unless it will benefit the borrower; Having a balloon payment with terms of less than five years unless it is a short term bridge loan to finance a new home purchase for a consumer selling an existing home; • Paying proceeds directly to a contractor; and • Forgetting to provide assignee HOEPA notice. • Prepayment penalty may not be charged first 2 years if: <ul style="list-style-type: none"> • The payment can change during the first 4 years; or • Funds from the refinance are used to pay-off the same lender.
Escrow	<p>Escrow required ONLY for 1st lien mortgages unless covered by a small certain creditor exemption, must escrow for property taxes and mortgage-related insurance for a minimum of 5 years. Even at 5 year threshold, cannot cancel escrow if ≥80% LTV based on original property value or loan not current</p>	<p>No escrow requirement for HOEPA/HCML.</p>