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Ability to Repay Loan Eligibility Requirements

The following provisions apply to loans with application dates on or after January 10, 2014.

Note: As to any loan for which the original application was made before January 10, 2014, but which was assumed on or after January 10, 2014, and subsequently purchased or securitized by Fannie Mae, then, for eligibility purposes, the application date is considered to be the date on which Truth in Lending Act disclosure requirements were triggered with respect to such assumption.

ATR Covered Loans. An ATR Covered Loan is a loan subject to the TILA's ability to repay requirements under Regulation Z and is otherwise not an ATR Exempt Loan (defined below). An ATR Covered Loan must meet the following requirements in addition to the other underwriting and eligibility requirements in the *Selling Guide*:

- have a loan term not exceeding 30 years;
- be a fully amortizing loan, as defined in Regulation Z:
 - the loan must have regular periodic payments that are substantially equal that do not result in an increase in the principal balance or allow the borrower to defer repayment of principal; and
- have total points and fees not in excess of 3% of the total loan amount (or such different amount as provided in Regulation Z) as described below under Points and Fees Limitations.

Exception: The only exception to these requirements is for single-closing construction-to-permanent loans, which may have a loan term that exceeds 30 years including the construction period. See [B5-3.1-02, Conversion of Construction-to-Permanent Financing: Single-Closing Transactions \(08/07/2019\)](#), for additional information.

The ATR Covered Loan requirements apply to acquisitions of newly originated loans (including government mortgage loans). These new requirements do not apply to assumptions or modifications of existing Fannie Mae loans regardless of the dates on which the loans being assumed or modified were originally closed.

ATR Exempt Loans. An ATR Exempt Loan is, with certain exceptions, a loan that either is not subject to TILA or is exempt from the ability to repay requirements in Regulation Z (12 CFR § 1026.43(a) or (d)). For purposes of determining whether a loan is an ATR Exempt Loan, lenders must follow the TILA and Regulation Z definitions.

Note: The classification of certain transactions for TILA purposes and for eligibility and underwriting purposes by Fannie Mae do not always align. For example, Fannie Mae defines a four-unit property where the borrower occupies one of the units as a "principal residence." If under TILA such a loan is considered to be for commercial or business purposes, it will be exempt from TILA and therefore considered an ATR Exempt Loan by Fannie Mae.

Exception: A "non-standard mortgage" to "standard mortgage" refinance transaction as defined in Regulation Z (other than a loan secured by an investment property that fits within the "business purpose" definition for an exempt loan under TILA) shall be treated as an ATR Covered Loan.