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Lender Update 2014-01

January 3, 2014

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WHEDA Loans Exempt Under ATR/QM

The Consumer Finance Protection Bureau (“CFPB”) on May 29, 2013, issued the [Final Rule](#) amending Regulation Z, which implements the Ability to Pay and Qualified Mortgage (“QM”) standards under the Truth in Lending Act (“TILA”). The Final Rule takes effect for loan applications received on and after January 10, 2014.

WHEDA has conferred with counsel and, with this Lender Update, is affirming its position that all loans made under a WHEDA single family residential loan program are, in fact, exempt from the ATR/QM rule because WHEDA is a Housing Finance Agency (HFA). Section 1026.43(a)(3)(iv) states that extensions of credit “made pursuant to a program administered by a Housing Finance Agency” are exempt from the ATR/QM requirements. This means such transactions made pursuant to WHEDA’s programs are exempt from paragraphs (c) through (f) of Subpart E.

Specifically, it is WHEDA’s opinion that when a loan it funds or purchases is made pursuant to a program it administers, that the following is true:

- There is no need to determine whether or not the loan is a Qualified Mortgage. As such Appendix Q is not applicable.
- The loan is effectively under a “safe harbor” regardless of whether or not it is a Qualified Mortgage under Section 1026.43(e) or whether or not it is a Higher Priced Mortgage Loan (HPML). Note: WHEDA does not purchase conventional HPMLs.
- The limit on points and fees under Section 1026.43(e)(3) does not apply.

While a loans made pursuant to a program administered by WHEDA is exempt from the ATR/QM rule, WHEDA’s end investors and guarantors may specify certain treatment of loans as a result of the ATR/QM rule. Please refer to the following sections of this Lender Update for program-specific discussion and guidance – [ATR/QM Exemption for WHEDA Conventional Advantage](#) and [ATR/QM for WHEDA FHA Advantage](#).

Lenders are advised to seek their own counsel regarding compliance with new regulations and requirements. Neither this Lender Update nor any guide or manual published by WHEDA should be construed as legal advice.

ATR/QM Exemption for WHEDA Conventional Advantage

In its Lender Letter dated May 6, 2013 ([LL-2013-05](#)), Fannie Mae reported that the Federal Housing Finance Agency (FHFA) had directed Fannie Mae and Freddie Mac "to limit future acquisitions to loans that a) are qualified mortgages under the ability to repay rule, including those meeting the special or temporary qualified mortgage requirements; or b) are exempt from the ability to repay requirements, such as investor transactions."

WHEDA has been informed that the loans it delivers to Fannie Mae are "ATR Exempt Loans," as opposed to "ATR Covered Loans." That said, some of the guidance Fannie Mae has provided in recent months regarding ATR/QM applies to all loans, including WHEDA's. Here's a summary of guidance applicable to WHEDA loans:

- Loans must be fully amortizing;
- Terms cannot exceed 30 years;
- Total points and fees on ATR Exempt Loans may not exceed 5% of the total loan amount ([Fannie Mae LL-2013-07](#));
- When Fannie Mae performs an onsite review, WHEDA will be required to provide evidence of processes and controls that support compliance with the 5% points and fees threshold;
- Fannie Mae is not, at this time, changing "its QC sampling methodology, review scope, documentation requirements, or repurchase processes as a result of the new eligibility requirements" relating to ATR Covered Loans or ATR Exempt Loans ([Fannie Mae LL-2013-07](#)); and
- Fannie Mae will continue to purchase loans that meet the delivery eligibility requirements in the Selling Guide and as they apply to WHEDA deliveries.

Therefore, at this time, WHEDA is not making any changes to its WHEDA Conventional Advantage Product Matrix, Overlays Grid, or underwriting guidelines applicable to loans under the program.

ATR/QM Exemption for WHEDA FHA Advantage

On December 11, 2013, the U.S. Department of Housing and Urban Development (HUD) released a [Final Rule](#) establishing the standards that FHA-insured loans will have to meet to be considered Qualified Mortgages. Loans that do not meet these standards will no longer be eligible for FHA-insurance as of January 10, 2014.

The Final Rule clarifies that Title II FHA-insured transactions funded by HFAs are exempt from HUD's Final Rule. The Final Rule states "HUD exempts housing finance agencies from the qualified mortgage rule, consistent with the CFPB's rule."

Therefore, at this time, WHEDA is not making any changes to its WHEDA FHA Advantage Product Matrix, Overlays Grid, or underwriting guidelines applicable to loans under the program.

Targeted Areas Changing Effective January 6

The Internal Revenue Service last week issued Revenue Procedure 2014-9 which provides a revised list of "qualified census tracts" based upon analysis of data compiled from the 2010 decennial census. Revenue Procedure 2014-9 will be published in the Internal Revenue Bulletin on January 6, 2014, immediately changing areas designated as Targeted Areas for WHEDA Tax Advantage, our Mortgage Credit Certificate (MCC) Program.

Applications received under WHEDA Tax Advantage dated on or after January 6, 2014, will be subject to the new Targeted Area designations. Under WHEDA Tax Advantage, buyers in designated Targeted Areas do not have to be first-time homebuyers and they benefit from a higher credit rate of 40%, versus the non-Targeted Area credit rate of 25%.

Target area maps on our website are currently being revised. We will notify you when these maps are available. [Click here](#) to view the Target Area Map Summary, which identifies the revised areas by census tract. It is important to note that some areas previously designated as Targeted Areas have lost that designation and will be subject to lower income limits.

Who to Contact – Your WHEDA Team

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