Banking and Finance Law Daily Wrap Up, MORTGAGES—CFPB proposes new 'seasoned' qualified mortgage category, (Aug. 19, 2020)

Banking and Finance Law Daily Wrap Up

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By Jacob Bielanski

The new category would encompass first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period.

The Consumer Financial Protection Bureau issued a Notice of Proposed Rulemaking (NPRM) that would modify rules surrounding Qualified Mortgages (QM) to now include a new category of "seasoned" qualified mortgages. To be considered a Seasoned QM under the proposal, loans would have to be first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period. Covered transactions would also have to be held on the creditor's portfolio during the seasoning period, comply with general restrictions on product features and points and fees and meet certain underwriting requirements. For a loan to be eligible to become a Seasoned QM, the proposal would also require that the creditor consider and verify the consumer's debt-to-income ratio (DTI) or residual income at origination.

Seasoned QMs would only be available for covered transactions that have no more than two 30-day delinquencies and no delinquencies of 60 or more days at the end of the seasoning period. Also, should there be a disaster or pandemic-related national emergency and as long as certain conditions are met, the proposal would not disqualify a loan from becoming a Seasoned QM for the failure to make full contractual payments if the consumer receives a temporary payment accommodation.

CFPB Director Kathleen Kraninger said the proposal would continue the CFPB's goal of fostering innovation in the mortgage market that was also "safe and responsible." "Our goal through our very deliberative rulemaking process is to protect, promote and preserve the financial well-being of American consumers while at the same time offering access to responsible, affordable mortgage credit," she said.

According to the new NPRM, seasoned QM status would only be available to fixed-rate loans that are fully amortized with 30-year terms or shorter, secured by a first lien and do not include balloon payments. Additional limits on points and fees would also apply.

The latest NPRM is the third proposal relating to QM rules issued in the last year. Two other proposals issued in June would, first, overhaul the QM rules to remove a debt-to-income (DTI) ratio limit of 43 percent, and replace it with a price-based model. The second would extend the temporary QM definition for mortgages eligible for purchase or guarantee by either Government Sponsored Enterprise (GSE), Fannie Mae or Freddie Mac. Known as the "GSE QM Patch," this latter rule was set to expire late January of next year, in lieu of the GSEs exit from post-recession conservatorship. The latest extension would expire upon the effective date of any possible adoption of the DTI rule changes from the first NPRM.

RegulatoryActivity: CFPB FinancialStability TruthInLending Mortgages